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EWING, WILLIAM G., D. 1854.

CLAIMS OF W.G. & G.W. EWING

AGAINST THE POTTAWATOMY

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CLAIMS
OF
W. G. & G. W. EWING
AGAINST THE
POTTAWATOMY NATION OF INDIANS;

*Secured by national obligations, executed in open council, on the same days,
and together with the Treaty of 5th and 17th June, 1846.*

W. G. & G. W. EWING

VS.

THE POTTAWATOMY INDIANS.

In the matter of the claims of W. G. & G. W. Ewing against the Pottawatomy Indians for national debts due by said Indians, the said claimants present to the Indian Department the following argument, this day of March, 1849.

In pressing upon the Indian Department the propriety of sanctioning and ordering to be paid the claims of the undersigned against the Pottawatomy nation of Indians, according to the stipulations entered into with them by the tribe, through its proper authorities, prior to the act of Congress on the subject of Indian affairs, approved March 3, 1847, a variety of considerations present themselves, some of which arise naturally out of the matters involved, and others of which are forced upon the undersigned by the extraordinary views recently put forth by the Indian Department.

The instructions of the Commissioner of Indian Affairs to Thomas H. Harvey, superintendent of Indian affairs at St. Louis, on the subject of Indian indebtedness, annuities, and payments, issued 30th August, 1847, present to the undersigned the singular aspect of virtually denying the validity of all their claims against the Indians, yet ordering the money of the Indians to be applied to the payment of a part of them. As those instructions tend to strike at the rights of the undersigned a fearful blow, and as they are not aware that they have yet forfeited the right of opinion, or of respectfully expressing their opinions, they deem it a duty to themselves to comment on some of the views presented by the Commissioner.

In the first place, the undersigned do not conceive (as suggested by the Commissioner, see instructions, paragraph 7) that "no such contracts" as they have made "were provided for, either by law or regula-

tions;" or that their contracts were made "without legal authority." On the contrary, it seems to them that their contracts were made under the sanction of the highest "legal authority" known to the people of the United States. The Constitution of the United States provides, that "Congress shall have power" to regulate commerce "with the Indian tribes." This power has been exercised by Congress. Laws have been passed regulating "trade and intercourse" with the Indians; authorizing the prohibition of improper articles of merchandise, and providing for licenses to citizens of the United States to trade with them, under responsibilities and penalties; and the highest judicial tribunal of the United States has repeatedly declared those laws a part of the "supreme law" of the land. Such was the "authority" of the undersigned. They were traders under license issued according to law; and they have believed their authority not only legal, but higher than could be given by mere regulations. It emanated from the Constitution and the laws passed under it.

The "authority" to carry on commerce with the Indians, thus granted to the undersigned, carried with it the right to conduct that commerce in the way and manner usual in the affairs of mankind. Being citizens of the United States, civilized themselves, and trading with a people approaching to civilization, they have conducted their business in a manner that was just and fair, and that violated no natural, revealed, customary, or statute law. Among all civilized nations throughout the world credit is an usual incident of commerce; it has been likewise an incident of the Indian trade; and until 3d March, 1847, so far as trade with Indians was concerned, there was no express or implied prohibition of it. The undersigned and other merchants, dealing under license with a people capable of contracting with them, were left free to sell their goods on any terms consistent with their desires, circumstances, and interests; and those of the other parties to their transactions. They were under no restrictions, by law or regulations, except as to particular articles declared contraband; and this restriction they have never violated.

There was even, by the granting of license to the undersigned, an obligation virtually assumed by the Government to protect them in all their just rights. The citizen, so long as he obeys and conforms to the laws of his government, is considered as under its protection everywhere; and the undersigned know of no reason why that protection should not be extended to the Indian country, nor how they have forfeited their right to it. It may not be possible for the undersigned to secure this protection; but all just men will concede, that it better becomes a government to protect, than to attempt to crush and destroy, the rights of its citizens. If the Commissioner of Indian Affairs could, by any possibility, be placed in like circumstances with the undersigned, it is not doubted that he would fully assent to the truth of this proposition.

It may be true, as stated by the Commissioner, (see instructions, paragraph 7,) that "there are no civil courts or remedies in the Indian country." It is the misfortune of the undersigned that such is the case,

as they are thereby thrown upon the Department. But does that fact invalidate their contracts with the Indians? They apprehend that it is a rule unknown to our jurisprudence, and which ought to be unknown to it, that a contract is void merely because "there are no civil courts or remedies" in the country in which it is made. The law, it is understood, countenances no such dangerous and immoral doctrine; for contracts have their validity on higher grounds than the remedy to enforce them; and an honest man never declares his contract void merely because it cannot be enforced against him. The essential moral force, the binding obligation, or the legal validity of a personal contract, are not affected by the want of remedy in the place where it is made. But whenever the parties to such a contract, made in a locality where there is no remedy upon it, are found within any jurisdiction reaching the case, the proper tribunal will recognise and enforce the contract, unless void or voidable for some inherent defect, other than this original want of remedy. (Story on Conflict of Laws, 477, 478, 479.)

The undersigned repeat, that until the passage of the act of Congress of March 3, 1847, there was not any "law or regulation" in existence, either expressly or by any possible implication, forbidding such contracts as they have made, or such a mode of trade as they have pursued. Admitting that under the Constitution Congress can, at its pleasure, prohibit the making of any "executory contracts" with Indians, and declare that all such contracts made between citizens and Indians "shall be deemed and held to be null and void," still, until thus prohibited, the contracts of the undersigned, fairly made, under the authority of the Constitution, the laws, the regulations and their license, are, to all intents and purposes, valid and binding. All they ask is, to have the benefit of fair, legal, just, and equitable principles, and not to be made the victims of any retrospective and oppressive construction of the act referred to.

Statutes are to be construed by their words, their subject matter, their effects and consequences, and their reason and spirit. These indicate and interpret the will of the Legislature. And there is nothing in either of these features of the act of Congress of March 3, 1847, indicating that a *retrospective* operation was intended. The language of the act, as to contracts, and indeed all of the objects of it, is in the future. All executory contracts made with Indians "shall be deemed and held to be null and void." This language, the subject-matter of the act considered, does not admit of a doubt as to its proper construction; and it is believed, with full confidence, that no court of justice, with learning to guide it, and a mind free from bias or prejudice, would apply it to contracts made before the act was passed. Congress could not have intended to make it a general bankrupt law for the Indians, and thus give to it effects and consequences most unjust and ruinous to citizens, besides teaching the Indians, by statute, a lesson of fraud and knavery. If Congress had intended the monstrous enormity of embracing *past* transactions, its language would have been, that "all executory contracts now made, or hereafter to be made, are declared, and shall be

held to be, null and void," or language of like import and strength. No aperture for a doubt to creep in would have been left; no room for a suspicion of ambiguity. But, as the act is worded, if there be any ambiguity at all, (which is not admitted,) the benefit of it should be given in behalf of equity, right, and justice. It is deemed certain that no court of justice would ever, by construction, enlarge the act so as to give it a retrospective operation. The pervading equity of the law—which is nothing more than common sense and common justice—would forbid it. The law abhors retrospective legislation; will never presume it to have been intended; and courts of justice always take care to construe, with the utmost strictness, even those statutes which were manifestly intended to be retrospective, and apply to subjects on which such legislation is permitted.

So vitally important to the ends of justice did the framers of the Constitution consider the sacredness of contracts, that the States are forbidden by that instrument to pass any laws "impairing" their obligation; nor can it be assumed, with proper respect for the Congress and the President who passed and approved the act of 3d March, 1847, that they have done a thing which, though not expressly forbidden by the Constitution, it seems to have been considered by its framers would never, in such a case as this, be attempted. They could not have intended to pass a bankrupt law—for such, in effect, retrospective construction would make it—that would not be "uniform," but would operate only on a particular class of debtors and a particular class of creditors. It is not believed that the Congress and President were so derelict in duty as to attempt any thing of the kind.

In this just view of the act referred to, the undersigned are sustained by the letter of the Hon. Lewis Cass to the Secretary of War, under date of 18th May, 1847, (a copy of which is in their possession.) Speaking of the change proposed to be introduced by that act in the payment of Indian annuities, this statesman says, "it should not operate to defeat the arrangements already made, with the consent of the parties. It might operate as well injuriously as unjustly; and it seems to me," he continues, "that the change when introduced should be prospective, leaving existing arrangements to be carried into effect under the present order of things." The Hon. Thomas H. Benton, Hon. Stephen A. Douglass, Hon. James B. Bowlin, and other distinguished statesmen, have expressed similar opinions.

Notwithstanding that this act of Congress virtually admits the competency of the Indians, (when not forbidden,) to make contracts, by forbidding them to do so—yet the commissioner intimates, in the instructions already quoted from, that the Indians were incompetent to make "contracts with individuals of a legal or binding nature, being considered in the light of wards under the guardianship of the Government." But the undersigned submit, that the Government is by no means "guardian" of the Indians in the ordinary sense of that term. If guardian at all, it is only to see that no wrong or outrage is done to them—not because they are incapable of managing their own internal

affairs. It is guardian, not for their oppression or destruction, but for their benefit; and it assumes this office as much for the "peace of the frontiers," as for the advantage of the Indians. It is not guardian, the undersigned believe, in the "light" meant by the commissioner. The sort of guardianship which it exercises, has been provided for by treaties, and acknowledged by the Indians; but no such latitude as the commissioner claims, has ever before, to the knowledge of the undersigned, been claimed for or given to it. The Indians have never dreamed that it extended to deprive them of the capacity to transact business for themselves, and, as incident to that, to make contracts. Though placing themselves under the protection of the United States, yet, as to their internal affairs, they have reserved the right of self-government. Congress alone, under the Constitution, can forbid them to make contracts, and that only with subjects of foreign Powers or citizens of the United States. It is apprehended, that, under a proper construction of the Constitution, and with a proper regard for the rights which they have never surrendered, Congress itself could not forbid Indians to make "executory contracts" with each other not inconsistent with the public policy of our Government; or interfere to "regulate commerce" among the Indians themselves. The reasoning and opinions of the Supreme Court of the United States, in many adjudged cases, sanction this view. In a separate opinion by Judge McLean, in the case of *Worcester vs. The State of Georgia*, (6 Peters' Reports, 592,) that distinguished jurist says: "Under this clause of the Constitution (to regulate commerce 'with the Indian tribes') no political jurisdiction over the Indians has been claimed or exercised. The restrictions imposed by the act of 1802 come strictly within the power to regulate trade. * * * It is the same power and is conferred in the same words, that has often been exercised in regulating trade with foreign countries. * * * The law acts upon our own citizens, and not upon the Indians, the same as the laws referred to act upon our own citizens in their foreign commercial intercourse."

To speak of the Indians, then, as "wards" of the Government, is apt to lead to a confusion of ideas concerning them. A guardian does not make treaties, bargains, and compacts with his ward. A guardian does not consult his ward in the management of the ward's estate. A guardian is responsible to the power which makes him guardian, and through that to his ward, for the manner in which he fulfils his trust. But the United States Government does make treaties, bargains, and compacts with the Indians; it does consult the Indians in the management of their estates, or at least has heretofore done, or professed to do so; and it is not known to whom or to what the Government is to be responsible for any abuse of its office of guardian, if it is to be self-imposed in the manner and to the extent claimed by the Commissioner of Indian Affairs. In the case of *The Cherokee Nation vs. The State of Georgia*, (5 Peters' Reports, page 17,) Chief Justice Marshall, speaking for the Supreme Court, says of the Indians, that "their relation to the United States resembles that of a ward to his guardian."

But the whole tenor of the opinion in that case shows, that he meant this resemblance—for it was nothing more—as presented by the claims which the Indians have on the Government for protection, and not as arising out of their incapacity to govern themselves, to transact their own business, and make contracts. For, in the same opinion, he speaks of them as “domestic dependent nations.”

Again: No one pretends that a “ward” can have any sovereignty. Yet the sovereignty of the Indian tribes, for certain purposes, has always been recognised. Even when located within the boundaries of a State of the Union, (although held not to be “foreign nations” in the sense in which “foreign nations” are spoken of in the Constitution,) the tribes have been regarded as presenting, among other anomalies, that of a sort of *imperium in imperio*. In the case already quoted, (5 Peters’ Reports, page 16,) Chief Justice Marshall, speaking for the Supreme Court, says: “So much of the argument as was intended to prove the character of the Cherokees (within the State of Georgia) as a State, as a distinct political society, capable of managing its own affairs, and governing itself, has, in the opinion of a majority of the judges, been completely successful. They have been uniformly treated as a State from the settlement of our country. The numerous treaties made with them by the United States recognise them as a people capable of maintaining the relations of peace and war, &c., &c. Laws have been enacted in the spirit of those treaties. The acts of our Government plainly recognise the Cherokee nation as a State, and the courts are bound by those acts.” The undersigned may ask, if the Indian Department is not equally bound by the “acts” of our Government? And if the case of the Pottawatomy nation, in all essential features—except that they are not now within a State of the Union—is not the same as that of the “Cherokee nation?”

On their own soil, without the boundaries of any State, the Indian tribes have always been regarded as, in some measure, independent nations—“domestic dependent nations,” at least; dependent for protection, independent in their own government; or as having something of the same kind of limited sovereignty, which appertains to each separate State of the Union; possessing some of “the attributes of sovereignty,” (6 Peters’ R., 580,) as expressed by Judge McLean. The Constitution recognises them as such, when it classes them with “foreign nations” and “separate States,” and provides for commerce “with the Indian tribes.” Nor have the Indians, since the Constitution was adopted, in any way parted with the measure of sovereignty then and always theretofore accorded to them, and further acknowledged by the United States, and ratified in all the treaties made with them.

It may be perfectly competent for the United States, by an act of Congress, so to “regulate commerce with the Indian tribes,” as that no executory contracts shall be permitted to be made between Indians and citizens of the United States. But this must be done, not by virtue of any office of “guardian,” but, under the Constitution, as one na-

tion regulating its commerce with another. It is not conceded that the Government, acting as "guardian," could do any such thing.

In the great case of "Worcester vs. the State of Georgia," (6 Peters' R., 515,) the true condition, character and capacities of the Indians are most elaborately discussed, and a flood of light poured on the subject of their relations to the Government and people of the United States. The decision arrived at by the Supreme Court, sustained by the masterly reasoning which distinguishes the opinions of that body, was, that a law by which the State of Georgia attempted to exercise jurisdiction over the territory and affairs of the Indians, even within her own borders, was null and void. It is not the proper place here (nor do the undersigned feel disposed for the task) to go into an argument to show that the policy of the act of Congress of March 3, 1847, forbidding contracts to be made with Indians, is doubtful, if not bad. They leave the framers of that law to reconcile its provisions as may be practicable, with the principles pervading civilized communities; and shall not stop to inquire what are to be its effects on the Pottawatomies, or among the Cherokees and Choctaws, for example, who have heretofore supposed that God and the world would smile on their efforts to imitate our form of government, to give themselves the benefit of free institutions, and to adopt laws similar to our own. The incompatibility of that act with the actual condition of those and other tribes, and with their progress in civilization, is a matter of but little concern to the undersigned, except so far as it is calculated to retard the general advance of the Indians in civilization, by denying them the common rights of free people, and thus degrading them in their own estimation, as well as in that of all mankind. But, as the full bearing of the doctrines of the instructions of August 30, 1847, may possibly have not been perceived, before they were put forth, and as they may influence unguarded minds to adopt them too hastily, it is deemed not inappropriate to present a few extracts from the pen of Chief Justice Marshall, contained in the opinion of the Supreme Court in the case of Worcester, above cited. These go to show, by facts and argument, that even considered (as the Pottawatomies are by the Commissioner of Indian Affairs) "in the light of wards under the guardianship of the Government," that they were still perfectly competent to contract with the undersigned.

"The relation between the Europeans and the natives was determined in each case by the particular government which asserted and could maintain this pre-emptive privilege in the particular place. The United States succeeded to all the claims of Great Britain, both territorial and political; but no attempt, so far as is known, has been made to enlarge them. * * * Soon after Great Britain determined on planting colonies in America, the King granted charters to companies of his subjects who associated for the purpose of carrying the views of the crown into effect, and of enriching themselves. * *

"The actual state of things, and the practice of European nations, on so much of the American continent as lies between the Mississippi and the Atlantic, explain their claims and the charters they granted. * * * Instead of rousing their resentment [of the Indians] by asserting claims to their lands, or to *dominion over their persons*, their *alliance* was sought by flattering professions, and purchased by rich presents. The English, the French, and the Spaniards, were equally competitors for their friendship and aid. Not being acquainted with the exact meaning of words, nor supposing it to be material whether they were called subjects or the children of their father in Europe; lavish in pro-

fessions of duty and affection in return for the rich presents they received; so long as their *actual independence* was untouched, and *their right to self-government acknowledged*, they were willing to profess dependence on the power which furnished supplies of which they were in absolute need, and restrained dangerous intruders from entering their country; and this was probably the sense in which the term was understood by them.

"Certain it is, that our history furnishes no example, from the first settlement of our country, of any attempt on the part of the crown to *interfere with the internal affairs of the Indians*, further than to keep out the agents of foreign powers, who, as traders or otherwise, might seduce them into foreign alliances. The King purchased their lands when they were willing to sell, at a price they were willing to take; but never *coerced* a surrender of them. He also purchased their alliance and dependence by subsidies; but never *intruded into the interior of their affairs, or interfered with their self-government*, so far as respected themselves only. * * *

"Such was the policy of Great Britain towards the Indian nations inhabiting the territory from which she excluded all other Europeans; such her claims, and such her practical exposition of the charters she had granted: she considered them as *nations* capable of maintaining the relations of peace and war; *governing themselves under her protection*; and she made treaties with them, of which she acknowledged the obligation.

"This was the settled state of things when the war of our revolution commenced. * * *
 "The Indians perceived in this protection only what was beneficial to themselves—an engagement to punish aggressions on them. It involved, practically, *no claim to their lands, no dominion over their persons*. * * *

"The same stipulation entered into with the United States, is undoubtedly to be construed in the same manner.

"This relation was that of one nation claiming and receiving the protection of one more powerful; not that of individuals abandoning their national character, and submitting as subjects to the laws of a master. * * *

"The settled doctrine of the law of nations is, that a weaker power does not surrender its independence—its *right to self-government*, by associating with a stronger, and taking its protection. A weak State, in order to provide for its safety, may place itself under the protection of one more powerful, *without stripping itself of the right of government, and ceasing to be a State*. Examples of this kind are not wanting in Europe." (See the case of *Worcester vs. the State of Georgia*, 6 Peters' Reports, 515.)

In the same case a separate opinion was given by Judge McLean, which also contains many valuable suggestions on the subject of the rights of the Indians and the relations of the Government towards them. In the case of *Mitchell and others vs. the United States*, (9 Peters' Reports, 711,) the subject of Indian affairs is again examined with great ability by the Supreme Court, and the right of the Indians to contract, even for the sale of their lands to individuals, with the license of the Government, is fully sustained; a right which is clearly implied by the 12th section of the Intercourse law of June, 1834, forbidding its exercise. Indeed, if space permitted, the undersigned believe they could produce such an array of authority from the Supreme Court of the United States, and other high sources, bearing on the question, that any unprejudiced reader would wonder how the competency of the Indians to make "contracts with individuals of a legal or binding nature" should ever have been doubted or questioned.

It is worthy of remark, that in the act of Congress of June 30, 1834, the sovereignty of the Indians is so far recognised that they are expressly excepted from the operation of the criminal laws of the United States; also, that the provisions of that law on the subject of depredations do not apply to cases to which none but Indians are parties; and that the United States undertook in the same act to pay the annuities as the authorities of the tribes should direct. And even in the Pottawatomie treaty of June 5, 1846, made under the orders of the present Com-

missioner of Indian Affairs, this sovereignty is expressly admitted, not only in the purchase of their lands, but in the compact of "peace and friendship" made with them. True, the United States, in that treaty, give "promise of all proper care and parental protection," but this is only in fact a pledge to act in good faith towards a dependent people. In acknowledging this protection, in accepting this pledge, the Indians, as has already been shown, (see cases quoted,) do not become less a distinct nation; not less "a State," as the Supreme Court declared the Cherokee tribe to be, even within the boundaries of the State of Georgia.

As the luminous, comprehensive, and just opinions of the Supreme Court illustrate so fully the capacity of the Indians to make contracts, (before forbidden by act of Congress,) the undersigned beg leave respectfully to refer the Commissioner of Indian Affairs to the cases quoted, and others to be found in the reports.

The undersigned have been led to these extended remarks by the course of reasoning and conclusions, intimated, too clearly to be mistaken, in the instructions referred to, which, in some parts, more than hint the entire invalidity of their contracts with the Indians—even those made before the act of March 3, 1847—on the ground of the legal incompetency of the Indians to make them, and the absence of judicial tribunals in the country where they were made. The undersigned are sensible and feel that they have been making an argument to sustain a proposition, the truth of which has heretofore been considered self-evident, and to refute a counter proposition, the unsoundness of which is equally self-evident. But the new and extraordinary views of the Commissioner of Indian Affairs have seemed to render this course necessary.

But, if possible, a more conclusive argument in support of the validity of the claims of the undersigned against the Pottawatomies—a sort of estoppel on the Government forbidding its denial of their validity—is to be found in the fact, that the very men who have thus contracted with the undersigned on the part of the Indians have been frequently recognised most solemnly by the United States as the supreme power of the tribe. Even fewer than these, as delegates to Washington, were recognised by the Department in that city in the fall of 1845, and an unwritten treaty agreed upon, and solemnized with them, to be afterwards perfected in their own country. To go further back, the treaty book shows that, in October, 1834, seven men of the Pottawatomies ceded to the United States the rich and valuable tract of country west of the Nodaway river, and south of the north line of the State of Missouri; describing themselves as "delegated" so to do, but not placing any of their "full powers" on record.

In all the councils in the Pottawatomy country the men who have contracted on the part of the nation with the undersigned have been the undisputed authority or government of the nation—known, regarded, and most solemnly recognised as such by the officers and agents of the United States. Acting in full view of and supported by their people,

they perfected the treaty of June 5, 1846, at Council Bluffs, and on the 17th June, 1846, in the Osage river sub-agency; the same treaty which had been agreed on by the commissioners and the delegates in Washington in the fall of 1845, and which the Senate has ratified. At the same times, in open council, and with equal solemnity, they contracted with the undersigned. If those men were incompetent to bind the nation to the undersigned by their obligations to pay money, (copies of which are hereto attached, marked "A" and "B")—if they could not, for their people, who stood around, urged, favored, and applauded the act, make such pecuniary contracts—how could they alienate the domain of the tribe, and bind the nation to leave that country and go to another? And why has the treaty been ratified and partly carried into effect? These questions are susceptible of but one solution; and when the undersigned are told that men who can contract with the Government cannot make contracts with them, is not the humiliating conclusion almost forced upon them, that the Government in so doing discredits its own acts, when they are to operate in favor of justice to the citizen?

And it may be here remarked that another strange feature is presented by the paragraph of the instructions of August 30, 1847, relative to the claims of Mr. Joseph Robidoux against the Iowas and the Sacs and Foxes of the Missouri. In the instructions these claims are fully sustained; yet in the same paper it is virtually stated, that the contracts of the undersigned—made under the law, in the Indian country, under license to trade with the Indians—were made "without legal authority;" and an intimation is given that they are invalid, because made in a locality where "there are no civil courts or remedies" to enforce them. Persons familiar with the manner in which Mr. Robidoux has conducted his trade, know that most of his sales and contracts have been made at the town of St. Joseph, in the State of Missouri, against the positive laws of the State; although, perhaps, as between him and the Indians, they are not, for that reason, less just than if they had been "provided for either by law or regulations." It is not charged that Mr. Robidoux has defrauded the Indians—far from it. The undersigned only say that his claims, thus sustained by the Department, have been made under circumstances forbidden by the laws of Missouri, and in which the "civil courts" would deny all "remedy." Nor have the undersigned any disposition to interfere between this personal friend of theirs and the Department. They are pleased to learn that justice has been done between him and his debtors; and they only ask that the same prompt assistance which has been rendered to him may be rendered to them also. They believe that their claims against the Pottawatomies are not less just than his against the Iowas and Missouri Sacs and Foxes; and they have the additional negative merit of not having violated the laws of either the State or Union in contracting them. If the Department, (acting as it seems on the principles, relating to the validity of contracts, set forth in the 6th paragraph of this argument,) could take jurisdiction in favor of Mr. Robidoux, the undersigned conceive that the reasons are much stronger why this jurisdiction should be exercised in their favor also.

Another point suggested by the instructions, in regard to per capita payments, deserves notice. It is true that such payments have been made in the St. Louis superintendency for several years past, particularly to the Pattawatomies, against whom the present claims are urged. But it is also true that those Indians, by their chiefs and head men, have been in the constant habit of setting apart funds, whenever occasion required it, to pay debts recognised as *national*; nor were their right and power to do so, until last year, ever questioned. Sometimes these moneys have been paid for provisions; sometimes for the services of the national clerk; sometimes, as in 1843, for the expenses of delegations to distant Indian councils; and sometimes for presents to neighboring Indians, or visitors to their country; and always, when the claim was just, without objection on the part of the Government or its agents, as to the "legal authority" or capacity of the Indians so to do. The argument, therefore, drawn from the previous per capita payments proves nothing against the claims of the undersigned; for the mode of paying out their money in national payments has been equally known, recognised, and sanctioned. (See the accounts of disbursing officers on file in proper department at Washington.)

Besides, the act of Congress of March 3, 1847, in regard to per capita payments, (in the language of Gen. Cass to the Secretary of War, contained in the letter before quoted from,) "is not IMPERATIVE, but vests the DISCRETION in the Department" [or President.] The term "discretion," when applied to the action of a public officer, is never construed to authorize or justify a wrong. But when conferred by the law, he is bound to exercise it, so as to carry out the ends of justice according to law and equity. The spirit of our institutions forbids any other course; and the undersigned ask no more than that this "discretion" may not be exercised to defeat the ends of justice in their case, and to inflict a grievous wrong upon them.

The undersigned now call attention to the customs of the Indians against whom they claim their dues, to show that the *lex loci* fully sustains their contracts. For the past thirty years it has been customary to do a business in some measure based on credit with those Indians. Even many years ago, when they depended almost exclusively on the chase for support, credit was usual, and their wants required, in many instances, that the returns of their hunt should be anticipated. Before their removal from Indiana, Illinois, Michigan, and Wisconsin, as their hunt became less, and owing to the sale of their lands, their annuities became larger, credit was still usual and necessary on the books of their traders. Since their location on the Missouri river and its waters, it has been indispensable to their necessities and condition. They are not an agricultural people, except to a very moderate extent, and their country has afforded them but little game; hence they have mainly depended on their annuities for support; and, as their wants frequently exceeded their means of ready money, or of supplies from the chase, the undersigned have been compelled to credit them, or withdraw from their business. Credits have been inseparable from the system of trade among

them, and their actual condition. This has been so often shown to the Department that it need not be enlarged upon now; but the undersigned beg leave to refer to their memorial of 8th May, 1847, on the subject. Individual Indians, in great want, have become indebted; they would pay part when able, and then the undersigned would be obliged to yield further credit in order, by not giving offence, to get anything at all at the ensuing payment for their advances—advances which were often involuntarily and unwillingly made on their part, but urgently asked for and insisted upon by the Indians.

The prices of the undersigned, even when selling on credit, have not been exorbitant. They have furnished good and substantial articles at fair prices—at prices which would not have been unreasonable even had their pay been certain, but which, all risks, expenses, and difficulties of collection considered, were certainly low and advantageous to the Indians—as they and the Government officers among them well know, and have time and again acknowledged. It should not be forgotten, either, by the Department, that the undersigned have been compelled to keep up all the year, at their posts in the Indian country, stocks of goods “suited to the wants” of the Indians, which could only be done at very great expense.

If it appear that some individual Indians are indebted to the undersigned in sums greater than others, any one acquainted with their mode of life and dealings can be at no loss to account for this fact. The Indians are a patriarchal, and among themselves, an hospitable people. They live much in common; and hence it sometimes happens that one family will, by Indian visitors and gifts to their friends and relatives, consume much more than others, and consequently have larger store bills. It sometimes happens that the chief or head of a little band or “village” will find himself obliged to run in debt in order to support his “village,” by which is meant his family, relatives, dependants, and friends, who urge him to do so—the credit being given to the chief as the most responsible and capable person; and, in former years, life annuities have been granted to individuals at the solicitation of the tribe, (numerous instances of which might be quoted,) principally on account of this usage. It sometimes happens, too, that individual Indians, whom the traders hesitate to credit further, procure chiefs to become their sureties, in which cases the goods are charged in the name of the chief, who makes it his business to assist in the collection of the money at the payment from the real debtor, as he knows that, if it is not all paid, (which has too often been the case,) the balance of the account will stand against himself in his own name. This course and custom of trade have been well known to the Government agents as a necessary feature of the system, and as growing naturally out of the habits, wants, and sentiments of the Indians. And such being the manner in which indebtedness is made, it is not strange that the annuity moneys and proceeds of treaties should not always reach to pay all the accounts in full; nor is it strange that the Indians have contracted to pay, *nationally*, debts thus created.

The cash sales of the undersigned at the payments, being equal to if not more than half of their entire yearly sales, owing partly to competition, have almost always been as low as cost and charges, and sometimes below them. But they claim no merit for this, because they were driven to it by circumstances; although the fact itself goes to rebut the charge, that they have taken advantage of the Indians by extortion and exorbitant prices; and it matters not what motive prompted these sales, the benefit of them inured none the less to the Indians. In order to procure ready money to meet their engagements, since the Indians have removed to the Missouri, the undersigned have been compelled to take this course, and, to that end, have frequently sacrificed their goods. For this and other reasons they have, in their memorial to the Department of May 8, 1847, characterized the trade as "disastrous."

That the Pottawatomies, both in the Council Bluffs and Osage river sub-agencies, have always expected and intended to pay the whole indebtedness of their people, by or through their late treaty, is a fact too well known for question. At former treaties they had done so; it was a custom and a law among them; and, but for the resolution of the Senate of March 3, 1843, their just debts would have been fully and specifically provided for in the late treaty, and they would not have treated on any other terms. As it was, they did all they could to act the part of honest and just men, both before and at the making of the late treaty, as a few facts will show.

When the Council Bluffs' Pottawatomies made a proposition to Major Harvey, in June, 1845, they particularly expressed a desire to provide for their debts. They said their people had gotten the goods and provisions of the traders, and they wished to pay for them. So, too, in Washington city, during the ensuing fall, in the course of counselling with General Gibson and Major Andrews, this subject was frequently discussed. It was well understood by those gentlemen, who assured the Indians that the funds arising from the treaty would enable them to pay their debts and carry out any agreement they might make in regard to them; for the truth of which statement those honorable gentlemen are referred to. And while in Washington, at that time, the Indians presented a formal memorial to the Senate, praying, among other things, for leave to provide nationally and in the treaty for the payment of their debts—that is, the debts of all the individuals of the tribe, which they and their people had determined to pay in that way. And, again, when they came to conclude the treaty in their own country, they inserted a provision recognising the nationality of their debts, which, it was understood, became national when the treaty was made; and they provided, in the fifth article of the treaty, that a sum should be set apart to pay those debts, so far as it would go, and for other purposes. They were limited in this provision, by the commissioners acting under instructions from the Department, to \$50,000. It was well known, at the time, that this sum was not sufficient to "wipe out the

old books," as the Indians expressed it, and other and further arrangements to pay out of the proceeds of the treaty were contemplated. (See affidavit of R. B. Mitchell, Indian sub agent.)

Hence, on the same day that the treaty was made at Council Bluffs, the authorities of the tribe there executed their obligation to the undersigned, (see copy herewith, marked "A,") on the part of the nation, merging all their individual claims in a national obligation. This obligation was executed with the same solemnity—the same full understanding of the act and its consequences—with which the treaty itself was executed. The agents and officers of the Government were present and acquiesced. They knew that the *individual* claims were then and there merged in the claim thus given the undersigned against *the nation*. There was no concealment, no misunderstanding. The contract of the undersigned was identical with the treaty, and, so far as the \$50,000 could go among the traders, was a part of the treaty.

This arrangement was made under the act of Congress of June 30, 1834, which provided that "the payment of annuities or other sums stipulated by the treaty to be made to any Indian tribe, shall be made to the chiefs of such tribe, or to such person as said tribe shall appoint." The chiefs and head men, acting under that law, which was then in force, and the laws and customs of their people, had a right to make it. They could as well create and recognise a national debt, based on the individual indebtedness of each member of the tribe, for goods and provisions bought and consumed by those individuals, as they could recognise or provide for a national debt based on any other consideration, or become parties to a treaty with the United States, on behalf of their nation, for the sale of their large domain, in which every individual of the tribe had an interest.

A similar engagement was made with the undersigned, by the chiefs and head men of the Pottawatomies of the Osage River sub-agency, (see copy marked "B,") with the knowledge and acquiescence of Thomas H. Harvey, esq., superintendent Indian Affairs at St. Louis, and witnessed, by his affixing his signature thereto, on the 17th day of June, 1846, the same day on which those Indians agreed to and signed the treaty made with the United States at the Bluffs, on the 5th June, 1846. This obligation was thus also identical with the treaty, and, as to the \$50,000, a part of it. (On this point the undersigned refer to the decision of Hon. J. R. Poinsett, then Secretary of War, made in May or June, 1838, on the validity of a national obligation, by the Wabash Pottawatomies, for \$6,000, in which he declared that the obligation was "*identical*" with the treaty, because made with the knowledge and consent of the treaty making commissioners, and that any attempt by the Government to discredit said obligation, having on its face Government officers for witnesses, would be a fraud upon the country.)

These arrangements having been made, no moneys were collected from the Indians, by the undersigned, on account of the debts due them at the annuity payments for 1846. Both parties regarded the debts as having become payable nationally, under the treaty and out of

its proceeds, *and in that way alone*. Therefore not a dollar was collected of these claims in 1846.

The Senate of the United States ratified the treaty containing the provision for the debts in part, in the 5th article, and thus, to the extent of the sum named therein, recognised the nationality of these claims. For it was not pretended that the Indians, as a nation, were in any other way indebted, so as to require any such provision in the treaty.

Again: By the appropriation of money to carry out the treaty, Congress virtually recognised, not only the national character of these claims, but the propriety of paying them.

Again: The instructions of the Department to Major Harvey, of August 30, 1847, notwithstanding their argument against all claims, recognise the nationality and justice of these and other claims, so far as the \$50,000 would go to pay them, by explicitly ordering them to be paid according to the "understanding."

Acting under those instructions, at the payment for 1847, Major Harvey permitted the Pottawatomies, at Council Bluffs, (in presence of the sub-agent who made and witnessed the payment,) to pay the undersigned \$12,250; and they would have paid \$750 more, if Major Harvey had not deemed it his duty to intercede for other claimants, (Messrs. Pearson and Cooper,) and persuade the Indians not to pay the first instalment to the undersigned in full, to the exclusion of his friends, the other claimants. And the Pottawatomies of the Osage River sub-agency would also have paid debts with their \$20,000 of the \$50,000, if the sub-agent had not disregarded the instructions of the commissioner and the law by refusing them permission to do so; telling them that his orders from the superintendent of Indian affairs (Major Harvey) forbade it. Thus, by a palpable violation of the supreme law, the undersigned have been kept out of their share of this \$20,000 paid in the Osage River sub-agency—not one dollar of that fund having been applied, as had been stipulated and as ordered by the Department, to the payment of the just debts of the Indians. (See affidavits of Lewis and others.)

It will be observed, that the agreement was to pay off these obligations out of the funds arising under the late treaty. This was the inducement with many, almost all, of the Indians to assent to the treaty. They gave up their lands and homes, looking to this result:—to clear themselves of individual indebtedness—as part of the consideration. They now regard themselves as entirely freed from their individual accounts; and in fact each one could plead in bar of the claims of the undersigned, in an action at law, the higher security which has been taken, and the change which, with the consent of both parties, has taken place in the character of the debts. The undersigned have no claims now against individual Indians. The nation is now their debtor, not the individuals. And apart from the impossibility of going back to the individual debtors that were, when part has been paid on the claims, such a step would be entirely fruitless; for the individuals would pay nothing, and the whole amount of the claims must be an absolute and irreparable loss to the undersigned, if the Department stands in the way of or in-

terdicts their collection. The only way in which the undersigned can ever get this money—justly due and owing to them, as they can show, and have always been willing and anxious to show, by irrefragable proofs, and acknowledged and recognised to be due by the Indians—is by having it paid in bulk, as agreed upon by the nation, out of the funds arising under the late treaty. Considered in reference to the amount of the annual income of the Indians, the instalments will be small; and can, the undersigned believe, “properly and consistently with the individual wants and necessities” of the Indians, “be spared for that purpose.”

The undersigned therefore ask that their claims may be so paid—

1. Because their commerce with the Indians has been carried on under the sanction of the Constitution, treaties, laws, and regulations of the United States.

2. Because their commerce has been carried on under the legal authority of license to trade with the Indians.

3. Because their claims have arisen, as the necessary consequence of the condition of the Indians and the system of trade among them.

4. Because their claims have been made according to the customs, and in obedience to the wants, of the Indians.

5. Because their commerce has been beneficial and satisfactory to the Indians.

6. Because their prices have been low, and their claims are just.

7. Because the individual Indians, who purchased and consumed their goods, had a right and power to do so.

8. Because the individual debtors desired and intended their debts to be assumed by the nation, at the making of the treaty, as part of the consideration.

9. Because the authorities of the tribe, in the presence and with the sanction of their people, did assume the debts as national.

10. Because the said authorities, by the act of Congress of June 30, 1834, and their own laws and usages, had the right and power to do so, and were competent to bind the nation.

11. Because this arrangement was made in the presence, and with the acquiescence, of the officers of the United States.

12. Because their claims were to be paid out of the funds arising from and under the late treaty—the provision for their payment and the expectation of that result having been part of the consideration for the cession of lands made by the treaty.

13. Because the obligations entered into by the nation with them, on the 5th June, 1846, at Council Bluffs, and on the 17th June, 1846, at Osage River sub-agency, were executed in open council, in presence of Government officers, in the same solemn manner in which the treaty was executed.

14. Because those obligations, entered into and executed on the same days with the treaty, are identical with and a part of it.

15. Because the treaty of June 5, 1846, recognised their claims, and in part provided for them.

16. Because the Senate, by ratifying the treaty, recognised their claims in part, so far as the \$50,000 would go among the traders.

17. Because Congress, in appropriating money to carry the treaty into effect, recognised and confirmed their claims, so far as the \$50,000 would go among all the claimants.

18. Because the Indian department, in the instructions of August 30, 1847, recognised and confirmed their claims, to the extent of the \$50,000, by directing that sum to be paid according to the "understanding" at the time the treaty was made.

19. Because part of the claims, arising in the Council Bluff's sub-agency, have been paid, under the direction of the superintendent of Indian affairs, Major Harvey, out of the funds arising under the treaty.

20. Because, in making that payment, the Indians again recognised the national character, justice, and validity of the claims.

21. Because they have no claim or recourse upon the individual Indians, the indebtedness of all having been merged in the national obligations, and thus assumed by the nation.

22. Because the national obligations call for small annual instalments, which the Indians can pay out of their large annuities, "properly and consistently with their individual wants and necessities."

Believing that they have fully made out and established their case, the claimants have the honor to subscribe themselves, humbly and respectfully,

W. G. & G. W. EWING.

"A."

COUNCIL BLUFFS, *June 5, 1846.*

We, the undersigned chiefs and braves of the Pottawatomy nation, for value received, agree to pay to W. G. & Geo. W. Ewing, or order, the sum of forty thousand two hundred and seventy-seven dollars in seven instalments: the first instalment to be thirteen thousand dollars; the remaining twenty seven thousand two hundred and seventy-seven dollars to be paid in six equal instalments; to be paid after the ratification of the treaty concluded this date; and at the first payment of annuities to the Pottawatomies, the first instalment; the second, at the payment in 1847; the third, 1848; the fourth, 1849; the fifth, 1850; the sixth, 1851; and the seventh, 1852.

Names.	Marks.
Me-aw-mese,	his x mark.
Ob-to-kee-shuck,	his x mark.
Me-gis,	his x mark.
Puk-won,	his x mark.
Show-nim-da,	his x mark.
Wab-me-me,	his x mark.
Kim-me-kay-be,	his x mark.
Saus-buck-skuck,	his x mark.

Sin-aw-che-won,	his x mark.
Cat-narb-me,	his x mark.
Ke-aw,	his x mark.
Wab-kee-shuck,	his x mark.
E-two-kee-shuck,	his x mark.
M. B. Beaubien, cl'k for nation.	
Jos. Laframboise, interpreter,	his x mark.
Pierre Leclerc,	his x mark.
Wab-say,	his x mark.
Me-she-ke-te-no,	his x mark.

Witness: R. B. MITCHELL, Ind. sub-agent.

LEVI L. TATE,

F. V. TAYON,

O. G. FLEMING,

THOS. D. S. MACDONNELL.

(Endorsed.)

\$12,250. Received, Point aux Poule, October 1, 1847, from the nation, the sum of twelve thousand two hundred and fifty dollars, being in part payment of the within national obligation.

W. G. & G. W. EWING.

Witness: R. B. MITCHELL, *Indian sub agent*.

“B.”

We, the chiefs, head men, warriors, and young men of the Pottawatomie nation of Indians, solemnly bind and pledge ourselves to pay to W. G. & G. W. Ewing, or order, the sum of six thousand four hundred and ten dollars and seventy cents, without defalcation, for value received in merchandise and provisions, due by us to said W. G. & G. W. Ewing up to this date. The funds to pay said amount above stated (\$6,710 70) to be taken from the first moneys accruing from the treaty made at Council Bluffs, 5th June, 1846, and Osage River sub-agency, 17th June, 1846. Given under our hands this 17th June, 1846. Payable in two annual instalments.

Tobnabee,	his x mark.
Wewisse,	his x mark.
Newarkto,	his x mark.
I-yo-wai,	his x mark.
Margahgwu,	his x mark.
Shaw-wee,	his x mark.
Louison,	his x mark.
Poke-to,	his x mark.
Neswahgee,	his x mark.
Mahsuk,	his x mark.
Chmokemanes,	his x mark.

Interpreter—J. N. BOURASSA.

Witness to signature—TH. H. HARVEY,
Superintendent Indian affairs.

EVIDENCE.

AFFIDAVIT OF MAJOR MITCHELL, SUB-AGENT.

PLATTE COUNTY, *State of Missouri*, ss:

Before me, William H. Spratt, an acting justice of the peace in and for said county, personally came R. B. Mitchell, of lawful age, and known to me to be a citizen of integrity and veracity, who being duly sworn deposeth and saith:

That he was the sub-agent of the upper or Council Bluff Pottawatomies on the 5th day of June, 1846, when Messrs. Andrews, Harvey, and Matlack arrived to complete a treaty with the Pottawatomie tribe of Indians for their country north of the State of Missouri, and upon the Osage river, west of said State.

That deponent assembled the chiefs and head men of said tribe of Indians, and councils were held by said commissioners; and deponent often heard said commissioners state in open council that the fifty thousand dollars appropriated in the 5th article of said treaty was specially appropriated for, and to be applied in payment of, the just debts due from said Indians to their licensed traders; and said commissioners assured said Indians that if their nation consummated said treaty, that the means would be furnished them therein to pay all their just debts due their traders, which said Indians declared they were anxious to do, and which they persisted in making one of the prominent conditions to the execution of said treaty.

That deponent heard said commissioners solicit the licensed traders to assist them, and to use their influence and that of their interpreters, to induce said Indians to consummate said treaty provisions; that if they done so, and the treaty was made, that all their just debts would be provided for; and that the \$50,000, appropriated in the 5th article of said treaty, would be thus applied on the then existing debts of all the members or individuals of the nation, which would be assumed by the nation, as was the custom of said nation of Indians when making treaties, and adjusted and paid out of the proceeds or sums allowed by the Government in the sale of their national domain.

That deponent believes that the principal traders, and their clerks and interpreters, did assist and render valuable service to the Government in influencing said Indians to make said treaty, and but for their [influence,] deponent believes it would not have been made; that deponent was surprised afterwards to be informed that \$20,000 of said money was not applied upon said debts; and that a large portion of the debts of both the lower and upper bands remain unpaid and unadjusted.

Deponent was present on said 5th day of June, 1846, when said treaty was signed by the chiefs and head men of said upper tribe of said Indians, and witnessed the same; and that upon the same day,

and immediately after the signing of said treaty, and before said Indians had dispersed from their councils, that several of their principal traders presented their demands for balances due them in trade from the people of said tribe, and they there executed, in open council, and in his presence, notes, one to Messrs. W. G. & G. W. Ewing, a copy whereof is hereunto attached, marked C, and which was witnessed by this deponent as their sub-agent. Another like note deponent recollects was made to P. Chouteau, jr., & Co., and which, he thinks, he in like manner witnessed; to both of which said firms deponent believes said Indians were largely indebted, and then meant and intended to pay in said national treaty transaction, and that said debts should be thus paid, in accordance with the custom of said Indians when making treaties; and that they were almost unanimous in their desire that all debts then owed by all the individuals of said nation or tribe should thus be nationally assumed and paid.

Deponent further saith, that he made the payment to the said Council Bluff band in October, 1847, when \$30,000 of said \$50,000 in the 5th article of said treaty, was paid out in open council by said tribe of Indians in the presence of the superintendent, T. H. Harvey, and this deponent; and by the direction of this deponent and said Harvey, the amounts received by W. G. & G. W. Ewing, viz., \$12,250 was endorsed on their national obligation, and witnessed by this deponent as sub-agent; and deponent believes that \$11,250, received by P. Chouteau, jr., & Co. was in like manner endorsed on their obligation at the same time, by the direction of said Harvey and this deponent. Said \$30,000 was paid out as follows, viz:

To Messrs. P. Chouteau, jr., & Co.	-	-	\$11,250
“ “ W. G. & G. W. Ewing	-	-	12,250
“ “ Bourbonney, Lafromboy, and other half breed traders, on debts due from the Indians			4,000
Me-am-ese, the chief, took and distributed for improvements, &c.	-	-	1,000
To Messrs. Pierson & Cooper, on debts	-	-	1,000
“ Mr. J. H. Whitehead, on debts	-	-	500
			<hr/>
			\$30,000

That the remaining \$20,000, being part of the before named \$50,000, was sent, as this deponent was informed, to the lower or Osage river band of Pottawatomies, for the purpose of enabling them, in like manner, to arrange their affairs, and to pay their just debts before leaving their homes.

This deponent so understood the treaty, see 5th article thereof, and also that part of the instructions from the Hon. Commissioner of Indian Affairs of 30th August, 1847, which relates to the said \$50,000, that it was a specific appropriation, and was to be paid out accordingly.

And further this deponent saith not.

R. B. MITCHELL.

Sworn to and subscribed before me, this 13th day of December, A. D. 1848.

WM. H. SPRATT, *Justice of the Peace.*

STATE OF MISSOURI, *county of Platte*, ss:

I, Danl. P. Lewis, clerk of the county court in and for the county of Platte, and State aforesaid, hereby certify, that Wm. H. Spratt, whose name is subscribed to the above certificate of affidavit as justice of the peace of said county of Platte, was acting as justice of the peace in said county of Platte at the time he signed his name to the same, legally elected, commissioned, and qualified, as the law directs; and that all his official acts as such are entitled to full faith and credit in all courts of law as elsewhere; and that the signature purporting to be his is genuine.

In testimony whereof I hereunto subscribe my name, and affix the seal of said court, at office in Platte city, on this 13th day of [L. s.] December, A. D. 1848.

DANL. P. LEWIS, *Clerk*.

AFFIDAVIT OF SAMUEL LEWIS.

JACKSON COUNTY, STATE OF MISSOURI, ss:

Personally appeared before me, D. Spencer, the undersigned, an acting justice of the peace in and for said county, Samuel Lewis, of lawful age, and known to me to be a citizen of integrity and veracity, who, being duly sworn, deposeth and saith: 'That, on the 17th of June, 1846, he was clerk in charge of the trading house of Messrs. W. G. & G. W. Ewing, amongst the Pottawatomie Indians of the Osage River sub-agency, (and had been in charge thereof from 1st January, 1845,) and was present when the chiefs and head men of said Indians signed the treaty of the 5th and 17th June, 1846. (It was signed at the Council Bluffs, as deponent was informed, by the chiefs and head men of the upper band on the 5th June, 1846.) And on said 17th day of June, 1846, deponent was present; and, on the same day, and before the signing of said treaty by the chiefs and head men of said Osage River sub-agency, heard Major 'T. H. Harvey, one of the commissioners then negotiating said treaty, publicly declare to the traders present that he and the other commissioners had no objection to any arrangement that the traders might make with said Indians for the payment of their just debts; and immediately after signing said treaty, and whilst yet in open council, and before it had adjourned, this deponent presented two notes or national obligations, one for balances due W. G. & G. W. Ewing, for \$6,410 70, and one other for like balances due the late firm of Ewings & Clymer, of \$4,773, (copies whereof are hereunto attached, marked A and B;) which said obligations, after being signed by the chiefs and head men, and witnessed by the interpreter, J. N. Bourassa, said Harvey took into his possession and carefully read them, and then directed deponent to insert the following words therein, to wit, "payable in two annual instalments;" and thereupon said Harvey witnessed the signing of said notes, in words following, to wit, "'Thos. H. Harvey, superintendent of Indian affairs," assisting, counselling, and advising therein officially. Deponent fur-

ther saith, that he was well acquainted with said tribe of Indians of the Osage River sub-agency, and knows that the chiefs and head men who signed said obligation were their principal chiefs and head men, most of whom had signed said treaty; and, on the same days as aforesaid, and in connection with said treaty transactions, executed said obligations with the full concurrence of the commissioners of the United States, advised and witnessed by one of them as aforesaid; and had it been deemed necessary, all the other chiefs and head men, deponent believes, would have signed said obligations, as many having signed as agents usually take to their pay rolls and other national vouchers and obligations. The evening after said treaty was signed, Major Andrews (one of said commissioners) expressed himself highly pleased that the traders had made so liberal an arrangement with the Indians; that no doubt but that the obligations given would be paid as stipulated therein, viz., in two annual instalments—adding, that it was a better arrangement than the Council Bluff traders had made for their claims, as theirs were, as he believed, payable in three (3) yearly instalments. Major Andrews likewise expressed himself as much gratified for the assistance the traders had rendered them (the commissioners) in procuring said chiefs and head men to sign and unite in said treaty. At the same time, like national obligations were made and delivered to their other traders, viz., Messrs. P. Chouteau, jr., & Co., Messrs. Polks, M. H. Scott, W. W. Cleghorn, J. B. Joutrois, and Messrs. & A. Jackson, for sundry balances claimed to be due them in their trade; and deponent heard said Harvey request Dr. J. Lykins to take his place, and in his stead to witness said last named traders' obligations, as he desired to do some other business. Both of said commissioners, Messrs. Harvey and Andrews, expressed themselves as pleased and satisfied with said arrangements, which had been made, as regards said debts, before and after the signing of the treaty at the Osage River sub-agency. Deponent further saith, that he was present at the payment of the following year, of October, 1847, at said Osage River sub-agency of the Pottawatomie Indians, and that the \$20,000 sent to their sub-agent, Col. Vaughan, was not paid on debts, as provided for in the 5th article of said treaty, (being said lower band's part of the \$50,000 set apart in said 5th article of said treaty;) and that deponent knows (as he was clerk for and assisted said Vaughan) that no part of said funds was paid on debts owing by said Indians to said traders prior to the making of said treaty, notwithstanding most of said traders were present, and demanded and urged the payment of the first instalment due them on their several obligations; nor was there any payment made thereon at the semi-annual payment of May, 1848, when said Indians received about \$67,000, they urging for excuses, as deponent was informed, that they were informed by their agent that said claims had not yet been investigated by the Indian department at Washington city. Deponent further saith, that he was present at the payment, in November inst., 1848, of the united Pottawatomie tribe of Indians on the Kansas river, acting as clerk for the agent, Major R. W. Cummings, and

knows that no payment was made on said obligations, although the payment thereof was demanded. Deponent speaks and understands the Pottawatomie language, and had conversation with some of the chiefs and head men, and believes they are willing to pay said debts in yearly instalments, if the Government would permit them to appropriate a part of their annuity therefor, as has been their custom to do in treaties—to make all the debts of their people then due national, and to be paid out of the proceeds of the treaty sales of their country. Deponent further saith, that, in accordance with the instructions from the Commissioner of Indian Affairs, contained in his circular of the 30th of August, 1847, and under the directions of W. G. & G. W. Ewing, he, said deponent, made out and sent, through the sub-agent, Colonel Vaughan, to the office of said Commissioner of Indian Affairs, in January or February last, (1848.) complete itemized accounts and exhibits, showing the articles for which the said notes to W. G. & G. W. Ewing, and to said Ewings & Clymer, were given, and that no part of which has ever, to his knowledge, been paid; which balances, specified in said obligations, this deponent believes to be just and due to said firms respectively. Deponent having been book-keeper and clerk and assistant trader for said firms in said trade from the year 1840 to May, 1848; reference is now made to the books of said firms, now on file, as deponent believes, in the office of the Commissioner of Indian Affairs at Washington city. Most of the entries in said books are in the handwriting of, and were correctly kept by, this deponent. Deponent believes that a large portion of said debts, say two-thirds or more, would have been paid by the Indians at the subsequent payment made in September, 1846, had they not thus been assumed nationally with the approbation of the Government officers, and released the individual Indians from liability.

And further this deponent saith not.

SAML. LEWIS.

Sworn to and subscribed before me, this 24th day of November, A. D. 1848.

DWIGHT SPENCER,
Justice of the Peace.

STATE OF MISSOURI, COUNTY OF JACKSON, ss:

I, Sam'l D. Lucas, clerk of the circuit court in and for said county, within the 6th judicial circuit of said State, certify, that Dwight Spencer, esq., is, and was at the date of the making of the foregoing affidavit by James Lewis, an acting justice of the peace in and for said county, duly commissioned and qualified, and duly authorized to administer oaths, and that full faith and credit are due to all his official acts as such, and that his signature thereto subscribed is genuine.

In testimony whereof I hereunto set my hand and affix the seal of said court, at office, in Independence, this 23d day of December, A. D. 1848.

[L. S.]

SAM'L D. LUCAS, *Clerk.*

"A."

We, the chiefs, head men, warriors, and young men of the Pottawatomie nation of Indians, solemnly bind and pledge ourselves to pay to W. G. & G. W. Ewing, or order, six thousand four hundred and ten dollars and seventy cents, without defalcation, for value received in merchandise and provisions, due by us to said W. G. & G. W. Ewing up to this date. The funds to pay said amount above stated (\$6,410 70) to be taken from the first moneys accruing from the treaty made at Council Bluffs, 5th June, 1846, and Osage River sub-agency, 17th June, 1846.

Given under our hands, this 17th June, 1846. Payable in two annual instalments.

Tobnabee,	his x mark.	Louison,	his x mark.
Wewisse,	his x mark.	Poketo,	his x mark.
Newarkto,	his x mark.	Neswahgee,	his x mark.
I-yo-wai,	his x mark.	Maksuck,	his x mark.
Wagahgwuk,	his x mark.	Chmokemanes,	his x mark.
Shah-wee,	his x mark.		

Interpreter—J. N. BOURASSA.

Witness to signature—

TH. H. HARVEY, *Sup. Ind. Aff.*

"B."

We, the chiefs, head men, warriors, and young men of the Pottawatomie nation of Indians, solemnly bind and pledge ourselves to pay to Ewings & Clymer, or order, the full and just sum of four thousand seven hundred and seventy-three dollars, without defalcation, for value received in merchandise and provisions, due by us to said Ewings & Clymer up to this date. The funds to pay said amount above to be taken from the first moneys accruing from the treaty made at Council Bluffs, 5th June, 1846, and Osage River sub-agency, 17th June, 1846.

Given under our hands, this 17th June, 1846. "Payable in two annual instalments."

Tobnabee,	his x mark.
Wewisse,	his x mark.
Now-aik-to,	his x mark.
I-yo-wa,	his x mark.
Maigahgwuk,	his x mark.
Shahwee,	his x mark.
Louison,	his x mark.
Poketo,	his x mark.
Neswahgee,	his x mark.
Mahsuk,	his x mark.
Chinokemanes,	his x mark.

Interpreter—J. N. BOURASSA.

Witness to signature—

THOS. H. HARVEY, *Sup. Ind. Aff.*

AFFIDAVIT OF JOSEPH CLYMER.

STATE OF MISSOURI, *Jackson county*, ss:

Personally appeared before me, Dwight Spencer, an acting justice of the peace in and for said county, Joseph Clymer, of lawful age, and known to me to be a citizen of truth and integrity, who being duly sworn deposeth and saith, that he was present at the Osage River sub-agency on the 16th and 17th days of June, 1846, when Messrs. Harvey, Andrews, and Matlack, acting as commissioners on the part of the United States, negotiated a treaty with the Pottawatomie Indians.

Deponent further deposeth and saith, that at the first council, held on the 16th day of June aforesaid, the chiefs and head men comprising said council having heard the proposition from the commissioners, asking them to unite and concur in the treaty as signed by the upper band on the 5th of that month, positively refused to do so, but, at the request of the commissioners, promised and did meet them in council again on the next day.

That said Indians again refused to sign, and asked that the 5th article should first be so changed as to allow them to provide for the payment of "all their just debts," as had been their practice to do in all their former treaties. They demanded that a special provision might be made for the payment of all their just debts. That the amount stipulated in said 5th article, viz., \$50,000, would not be sufficient to pay all the just debts owing by the upper and lower bands, and therefore they wanted it stricken out and changed as above stated. In reply to this, the commissioners informed said Indians that they were pleased to see them want to make a provision for the payment of their just debts, but that they could not alter that article and comply with their request, as it had already been signed by the upper band. That they would wait on them, and give them time to make any arrangement with their traders that was satisfactory; and that they would sanction, approve, and recommend the same. That it was right to pay their just debts, and that their great father, the President, always paid his debts promptly, and that it was his advice to his red children to pay theirs. Said commissioners counselled and advised said Indians to make arrangement to pay their just debts, and accordingly it was done. National obligations for the amounts due to the firm of W. G. & G. W. Ewing, and to the firm of Ewings & Clymer, were then drawn up, and after having been fully explained in open council, at the same time and place of signing the treaty, the Indians signed and acknowledged the same. That Thos. H. Harvey, acting thus officially, took said obligations, and read them over carefully; then (using Joseph N. Bourissau, an educated half-breed, being the same person who had been employed by the commissioners just before to interpret the treaty) asked the said Indians, in full council, if they owed the said claimants, W. G. & G. W. Ewing, the sum of \$6,110, and if they were also indebted to Ewings & Clymer \$4,773—pointing out the claimants—was answered by them that they did owe them said sums; said Harvey then

asked them how they were to pay; [to] which the Indians replied, "in two annual instalments, out of the first moneys they received under the new treaty;" said Harvey then caused said two national obligations to be interlined accordingly, and the following words, before signing, were added, "payable in two yearly instalments;" whereupon the Indians came forward and signed said obligations, in open council, with the full approbation of all the nation and of the said commissioners, with the full understanding at the time, and as previously expressed by the Indians, that the sum named, viz., \$50,000, would be insufficient to pay all their debts; but that the Government would have no objections to their paying the remainder out of their annuities, as had been their custom always before; and without this understanding the treaty, deponent thinks, could not have been signed. The Indians demanded this of their chiefs and head men, that if they sold their country all their debts were to be paid and cancelled nationally out of the proceeds of the treaty. That it was understood by said Indians, when they signed [and] consented to said treaty, that all their debts were provided for and settled, and that they, individually, were not again to be called upon for them, which was the strong inducement on their part consenting to the treaty. And said interpreter and the said Thos. H. Harvey signed and witnessed the same, as by reference to said obligations will be seen. Deponent further saith, that before the treaty was signed, and preparatory thereto, the said commissioners consented and advised the Indians and their traders to go and hold a council amongst themselves, and arrange all their affairs, and settle about their debts, before signing the treaty, which they did do. After which said Indians returned again into council, and then and there signed the treaty, and said national obligations identical with the treaty as before stated, under the advice of said commissioners, and with their full concurrence, and with their promise to said Indians that they would recommend their payment, which satisfied the Indians, and reconciled them to signing the treaty—their wish being to have their debts paid nationally out of the treaty money, as had always been their custom, and which was the reason why they wished the sum in the 5th article made larger.

Before the treaty was signed, the commissioners informed said Indians that their brothers of the upper band had made an arrangement with their traders to pay all they owed them, and they hoped they, the lower band, would do the same, so their debts might not be an obstacle in the way of their signing the treaty. That they wanted to see them do this, and would not advise them (the Indians) to cheat their traders out of their just debts, but to act honest and pay them, as they would want credit again; and that no people's credit was good who refused to pay what they justly owed. Deponent further deposeth and saith, that Major Andrews, before the treaty was signed, assured this deponent that the said commissioners were not opposed to the Indians paying their debts in any way that they and their traders might agree upon. That the whole of the \$50,000 named in the said 5th article was to be

applied specifically on their debts; and that "paying for improvements, purchasing wagons," &c., was merely put in to facilitate the ratification of the treaty by the Senate. Deponent says he was present at the payment of the annuities to said Indians by Colonel Vaughan, their sub-agent, in October, 1847, and that no part of the \$20,000 sent there, being part of the said \$50,000 named in said 5th article of said treaty, was paid out on said debts, due before the making of said treaty; although asked for and demanded by the claimants, not one dollar of it was so paid out; and in this way, deponent thinks, said treaty was violated. Deponent further states, that he was present in Colonel Vaughan's office when Geo. W. Ewing and John B. Sarpy were demanding and insisting on his paying out said \$20,000 on the just debts, according to the stipulations of the treaty, of the instructions from the Commissioner of Indian Affairs in relation to said \$50,000; all of which said Vaughan refused to do, stating that he was instructed by Major Harvey, the superintendent of Indian affairs, not to pay any thing upon national debts, and that he had said Harvey's private letter as his authority; which private letter he then exhibited. This was but a day or two before he made the payment. This deponent saw and read said private letter from Major Harvey to Colonel Vaughan, in which the former agreed to bear the said Vaughan harmless in refusing to pay any part of said moneys that year on the said national debts, and authorizing him to use his (said Harvey's) name, if necessary, in doing so; which said Vaughan did do, and positively refused to pay any part of said \$20,000 to the said claimants; whereby this deponent thinks the treaty was violated, and great injustice done to the claimants, by said Harvey and said Vaughan. And further this deponent saith not.

JOSEPH CLYMER.

Sworn to and subscribed before me, this 4th day of December, A. D. 1848.

DWIGHT SPENCER,
Justice of the Peace.

STATE OF MISSOURI, *county of Jackson, ss:*

I, Samuel D. Lucas, clerk of the circuit court in and for said county, within the said 6th judicial circuit of said State, certify, that Dwight Spencer, esq., is, and was at the date of the making of the foregoing affidavit by Joseph Clymer, an acting justice of the peace in and for said county, duly commissioned and qualified, and duly authorized to administer oaths, and that full faith and credit is due to all his official acts, and that his signature thereto subscribed is genuine.

In testimony whereof I hereunto set my hand and affix the
[SEAL.] seal of said court, at Independence, this 25th day of December, A. D. 1848.

SAM'L. D. LUCAS, *Clerk.*

AFFIDAVIT OF GEO. W. EWING.

STATE OF MISSOURI,
County of St. Louis.

On this twenty-fifth day of January, eighteen hundred and forty-nine, personally appeared before me, a justice of the peace and notary public in and for said county and State, George W. Ewing, known to me to be a citizen of truth and integrity, who, being duly sworn according to law, on his oath declares as follows, to wit:

That he was present in the Osage River sub-agency previous to the payment of annuities to the Pottawatomy Indians of said sub-agency, and also at said payment in October, 1847.

That a few days before said payment, to wit, on or about the 27th day of September, 1847, this deponent was present with Joseph Clymer, John B. Sarpy, and others, creditors of said Indians, in the office of Col. A. J. Vaughan, sub-agent for said Indians, when said Vaughan was requested by the creditors present to pay out the sum of \$20,000, which was then in his hands, under the fifth article of the treaty of June 5, 1846, (being part of the \$50,000 set apart by said article and applicable to the payment of the just debts of said Indians,) according to the stipulations of said treaty, and the acknowledgments of indebtedness entered into by the Indians at the time of making said treaty, and which acknowledgments were made and given in the presence and with the approbation of Thomas H. Harvey, superintendent Indian affairs, and at the time one of the commissioners of said treaty; the said sum of \$50,000 having been appropriated to that purpose not only by the instructions of the commissioner of Indian affairs of August 30, 1847, but also by the treaty solemnly entered into and ratified; said sum of \$50,000 being a specific appropriation, intended expressly and solely to be applied to the payment of debts, and belonging to the Indians solely for that purpose, and no other.

That said Col. Vaughan refused to make the payment, as had been agreed on by the Indians, and according to the treaty; stating that he was most positively instructed by Thomas H. Harvey, superintendent Indian affairs, not to pay out the \$20,000 in that way, nor to permit one dollar of any money to be paid on any of the national debts of the Indians due prior to the making of the treaty. That said Vaughan then showed his instructions, in which he said he considered himself instructed by said Harvey to withhold the payment of the \$20,000 on the claims of the creditors of the Indians, although he declared, that if he had been left to his own sense of what was just in the case, he would have paid out the money according to the stipulations of the treaty and the Indians.

That on the same occasion said Vaughan also stated, that in addition to his official instructions he had a private letter from said Harvey forbidding him to pay, or permit to be paid, any part of the \$20,000, or any other money, on the debts of the Indians, and according to the treaty. That he exhibited said letter to the persons present, having

been authorized by the writer to use the same, with the writer's name, to sustain himself in the course he was about to pursue.

That previous to this occasion said Vaughan had frequently declared, in presence of this deponent, that in making the payment, if left uninstructed, he would pay the \$20,000 under the treaty stipulations and in pursuance of them, and of the obligations of the Indians, alleging that he believed that justice and right, as well as the treaty, required him to do so; but that he would obey the instructions of the superintendent, Major Harvey, whatever they might be.

That when said Vaughan was subsequently instructed by said Harvey not to pay the money, he obeyed said instructions, and violated the treaty by refusing to carry out its provisions. That he assigned no other reasons for his conduct than the instructions of said Harvey; and that deponent has every reason to believe and to know, that the violation of the treaty was caused by the orders and influence of said Thomas H. Harvey.

That, accordingly, said Vaughan applied the \$20,000 contrary to the treaty, in obedience to the illegal and unjust orders of the said superintendent, by which means the citizens, (whose goods had been consumed by the Indians, whose claims had been acknowledged to be just, and for whose relief the money was specially appropriated,) were greatly wronged and injured.

Deponent further states, that, from his observation of the official career of said Harvey, he believes him to be governed in his conduct as superintendent of Indian affairs by malicious feelings towards particular persons, and that he acts from motives unworthy of a public officer. That said Harvey has used the power of his office to oppress and injure this deponent, and other American citizens, without any just cause, and has done much to demoralize and debauch the Indians by teaching them bad faith, and encouraging them to violate their contracts fairly and honestly made.

And further this deponent saith not.

GEORGE W. EWING.

Sworn to and subscribed before me this 25th day of January, A. D. 1849.

In testimony whereof I have hereto subscribed my name and affixed my notarial seal of office in the city of St. Louis, the day and
[L. S.] year in this behalf above written.

JOHN W. COLVIN,
Notary Public.

AFFIDAVIT OF JOSEPH CLYMER.

STATE OF MISSOURI, *Jackson county*, ss:

Personally appeared before me, Dwight Spencer, an acting justice of the peace in and for said county, Joseph Clymer, of lawful age, and personally known to me to be a citizen of truth and integrity, who, being duly sworn, upon his oath deposeth and saith:

That he was present at the payment of annuities made to the Osage river Pottawatomie Indians, in October, 1847, by Col. A. J. Vaughan, their sub-agent; that he was present, in said Vaughan's office a few days before he made said payment, and heard John B. Sarpy, of the firm of P. Chouteau, jr., & Co., and George W. Ewing, of the firm of W. G. & G. W. Ewing, ask and request said Vaughan to pay out the \$20,000 he then had (being a part of the \$50,000 due under the 5th article of the treaty with the Pottawatomies of the 5th June, 1846,) to their firms and others who were just creditors of said Indians; stating that, by the treaty as well as by the instructions of the commissioner [of] Indian affairs, of the 30th August of that year, that money was a specific appropriation, and of right was payable to the claimants and did not belong to the Indians only for that specific purpose; but that said Vaughan refused to do so, stating, as his reason, that he was instructed most positively by Major Thomas H. Harvey, the superintendent [of] Indian affairs, not to do so; nor not to permit one dollar to be paid on any of the national debts due prior to the making of that treaty; said Vaughan then showed his instructions from said Harvey, in which he said he considered himself so instructed, and that he would obey Harvey's instructions, although if he had been left to his own sense of the case he would apply the \$20,000 on debts, as the 5th article of the treaty required; that he believed the said money ought to be so paid, but that he would obey Harvey's instructions; he also stated that he had a private letter from said Harvey, forbidding him from paying any part of said money on said debts, and authorizing him to use it and the writer's name if necessary; he did show said private letter, from Thos. H. Harvey to him, to this deponent, who read it; whereupon said Vaughan refused to pay out said specific appropriation according to the treaty; and, acting under said Harvey's instructions, violated said treaty, greatly to the injury of the citizens having just claims against said Indians, and to pay whom said money was appropriated.

JOSEPH CLYMER.

Sworn to and subscribed before me, this 4th day of December, A. D. 1848.

DWIGHT SPENCER,

Justice of the Peace.

STATE OF MISSOURI, *county of Jackson*, ss:

I, Saml. D. Lucas, clerk of the circuit court in and for said county, within the 6th judicial circuit of said State, certify, that Dwight Spencer, esq., is, and was at the date of the making of the foregoing affidavit by Joseph Clymer, an acting justice of the peace in and for said county, duly commissioned and qualified, and duly authorized to administer oaths, and that full faith and credit is due to all his official acts, and that his signature thereto subscribed is genuine.

In testimony whereof I hereunto set my hand and affix the seal of said court, at Independence, the 23d day of December, A. D. 1848.

SAML. D. LUCAS, *Clerk.*

KANSAS RIVER, *November 12, 1848.*

Messrs. W. G. & G. W. EWING:

GENTS.: In reply to your request, that I would express my opinion relative to the standing and character of Mr. John D. Lasley, I have to say that I became acquainted with him at Council Bluff, in the State of Iowa, whilst I was the sub-agent of the Pottawatomies, and he (Mr. Lasley) was clerk in charge of your trading establishment, and consider him a man of integrity and veracity; that he was much respected both by the whites and Indians, and consider him an honest and correct business man; his testimony or statements upon oath would, in my opinion, be entitled to full faith and credit.

Very respectfully yours, &c.,

R. B. MITCHELL,
Late Indian sub-agent.

WEST PORT, Mo., *Nov. 24, 1848.*

Messrs. W. G. & G. W. EWING:

GENTS.: In reply to your inquiry, I have to state that I have known John D. Lasley, your former clerk, in charge of your Pottawatomie trading house at Council Bluffs, for many years, and believe him to be a man of truth and veracity.

Very respectfully, your obedient servant,

RICH. W. CUMMINS.

WEST PORT, Mo., *Nov'r 24th, 1848.*

Messrs. W. G. & G. W. EWING.

GENTLEMEN: In reply to your request I have to state, that I have known your late clerk, Samuel Lewis, at Sugar Creek, in the Pottawatomie country, for many years; and, since he left your service last June, he has been in my employ, and assists me in making up my quarterly returns.

I believe Mr. Lewis to be a man of truth and integrity, and a most excellent and correct book-keeper.

Very respectfully, your ob't serv't,

RICHD. W. CUMMINS.

OSAGE RIVER SUB-AGENCY, *Nov. 22d, 1847.*

GENTLEMEN: Yours of the 20th inst. is received, and in reply I have to say, that I have known Samuel Lewis, your clerk in charge of your trading-house at Sugar creek in my sub-agency, ever since I came to the country; my acquaintance with him has been of the most intimate kind, having frequently visited him at his post, seen him at my pay-

ments, where he always assists me preparing pay-rolls, counting out money, &c.

Indeed Judge Lewis has been my principal clerk, and has aided me in making up my quarterly returns to the Department, as by reference will be seen.

His experience, skill, and ability, as a clerk and business man, is not surpassed by any other man in the country.

And it affords me great pleasure to bear testimony to his moral worth and general good character; from my long acquaintance with him I have become satisfied that he is a man of strict honesty and integrity, and enjoys the entire confidence here of all who know him.

With the Indians of this sub-agency Judge Lewis is a great favorite; and, in all his business transactions with them since I have been in this sub-agency, (much of which has come within my personal notice,) I have never known his accounts to be questioned or disputed by the Indians.

They have implicit confidence in him, and I have no hesitation in saying it is well merited.

The Judge has remained constantly at your house for the past three years to my knowledge, never having been absent longer than four or five days at any one time, and then oftener at my agency-house than any where else, aiding and assisting me in making and arranging my quarterly accounts, &c.

Judge Lewis' conduct and general deportment, during my residence here, has been exemplary, and every way gentlemanly.

In making this statement I feel that I am but doing an act of justice to your clerk, whom I esteem as a most capable and worthy man.

Respectfully, your ob't serv't,

(Signed)

ALFRED J. VAUGHAN,

Ind. sub-agent.

Messrs. W. G. & G. W. EWING:

Your note, under date of 11th December, 1847, is now before me, and in reply have to say, that I have been for several years acquainted with your clerk, Samuel Lewis, and I take great pleasure in stating that I always had the highest opinion of him as a business man for correctness and integrity; and, as to his knowledge of book-keeping, I have no hesitation in saying that it is equal to any; and, so far as I have had an opportunity of seeing him in the trade with the Indians, I have always considered him to be a very fair dealer, and personally I esteem Mr. Lewis a gentleman.

I am, very respectfully, your most obedient servant,

(Signed)

ANTHONY L. DAVIS,

Late Indian Sub-agent.

At home, December 11, 1847.

ARGUMENT

OF

W. G. & G. W. EWING & OTHERS,

IN

FAVOR OF THE CONFIRMATION OF AN AWARD

MADE

AGAINST THE MIAMI NATION OF INDIANS,

ON

THE 11TH DAY OF JUNE, 1846.

BEFORE

THE COMMISSIONER OF INDIAN AFFAIRS.

WASHINGTON:

PRINTED BY GIDEON & CO.,

1850.

ARGUMENT.

Hon. ORLANDO BROWN,
Commissioner of Indian Affairs.

152347

On the 4th September, 1845, the Miami nation of Indians, assembled in council, addressed a memorial to the President of the United States, setting forth that they had contracted debts to a "considerable amount" since the 25th February, 1841, which they were desirous to discharge before they were removed to the West. They requested that commissioners might be appointed by the President to investigate and report upon them. For the purpose of paying whatsoever might be found due, they then relinquished \$12,000 each year, for three years, out of the 8th, 9th, and 10th instalments of \$12,568 each, arising from the 3d article of the treaty of the 6th November, 1838, or so much thereof as might be necessary to pay the amount found due. [See exhibit A.]

This memorial was forwarded to the Commissioner of Indian affairs by Joseph Sinclear, sub-agent of the Miamis, and was accompanied by a letter from him of the 19th January, 1846. In this letter he says: "I can state from *my own knowledge* that the *Indians are anxious* to bring about this arrangement previous to their removal, and there can be no danger of any difficulties growing out of it." He also stated that it was not expected by any of the parties that this money should be paid until the removal of the tribe was fully accomplished, and that the arrangement would secure the influence of the traders to accomplish the removal; which he considered "a matter of some considerable importance." [See exhibit B.]

On the 17th March, 1846, this memorial, together with Sinclear's letter, were laid before the President by the Commissioner of Indian affairs, who, in an endorsement upon them, stated that he could "see no reason why this Department should be required to interfere in the matter," as the "debts were created in the ordinary course of trade with the Indians, after the ratification of the treaty of 1840, and with a full knowledge of the contemplated removal of the tribe." [See exhibit C.] He also enclosed to the President a resolution under which it was claimed that he might act. [See exhibit D.]

On the 30th March, 1846, the President gave his opinion, declining to grant the prayer of the memorial. He said—"the debts claimed were created after the ratification of the treaty—with which the United States ought not to interfere. *Like other individual debts they must be settled by the parties themselves.*" [See exhibit E.]

The reason here assigned by the President was a good one. The 3d article of the treaty of 1840 provided that the United States should, im-

mediately on the ratification of the treaty, "appoint a commissioner or commissioners, who should investigate all claims against any and every member of the tribe, which have accrued *since the 6th day of November, 1838*, or which may accrue before the date of the ratification of this treaty." The treaty was ratified on the 25th February, 1841. Here, then, was a stipulation which limited the power of the President, and it is very clear that he had no authority to appoint commissioners to investigate debts not embraced within the stipulation. He obtained his power only from the treaty, and as the treaty had already been executed, he could do nothing more. In his official capacity as President of the United States, he had no power to appoint commissioners in any case. The President, then, intended to decide, and did decide, nothing more than that he would not appoint commissioners. He did not examine a single claim, for the very good reason that there was no claim before him. He saw nothing but the memorial of the Indians, the letter of Sinclear, and the endorsement of the Commissioner of Indian affairs.

But the President did decide a matter very material to the present inquiry; which was, that "*like other individual debts they must be settled by the parties themselves.*" By this, he could have meant nothing else, than that the Indians and their creditors were each fully competent to do every thing necessary to be done to carry out the purposes expressed in their memorial to him. He could not decide the debts, nor interfere in any way in their decision, but left them to "*be settled by the parties themselves.*" It was not his province to point out the mode of settlement, but he intended, of course, to leave the parties to the best mode, according to the custom that had prevailed amongst the Indians and under the laws of the country.

That they did select the best mode is sufficiently shown by the proceedings of the arbitrators, who, as will be subsequently seen, have adopted every possible means of guarding the rights of the Indians.

On the 18th day of April, 1846, *nineteen days after* the refusal of the President to appoint commissioners, the chiefs, headmen, and warriors of the Miami nation, held a council "to take into consideration the means of ascertaining the amount of their indebtedness." At this council it was agreed, that they "should unite with the creditors in appointing a commission of three persons, wholly disinterested, to sit as arbitrators, &c., to investigate and award to the creditors the amount due them from the Indians." At the same time, Messrs. E. Murray, W. Z. Stewart, and G. N. Fitch, esqrs., were selected as such arbitrators. [See exhibit F.]

The arbitrators attended at the place agreed upon, on the 4th day of May, 1846, and were duly and regularly sworn by a justice of the peace.

The Indians and the creditors executed an arbitration bond, which was signed by *nineteen* chiefs and headmen of the nation, at the head of whom stood Francis Lafontaine, who, at the time and until he died, was principal chief, having been so recognised after the death of John

B. Richardville, his father-in-law. *Seven* of these chiefs had signed the treaty of 1840. This bond was fully explained to the Indians by an interpreter while they were "*in open council*," and their rights carefully guarded by E. P. Loveland, esq., who was present as attorney for them, in which capacity he has witnessed the bond. This bond contained a number of stipulations setting out the terms of the submission. [See exhibit F.]

First. That the arbitrators should be confined to claims which had accrued after the 25th of February, 1841, and before that date, (the 4th May, 1846;) but provided that no claim should be allowed on goods, &c., sold since the 20th November, 1845, except for provisions.

Second. That the investigation should be governed by such rules as the parties should agree to.

Third. That the arbitrators should report the amount due to each claimant, forward a copy to the proper Department at Washington, and issue certificates therefor.

Fourth. That they should also report the expenses of the submission, which were to be paid out of the first instalment therein mentioned.

Fifth. That from said first instalment was also to be paid \$5,200 to Francis Lafontaine, the head chief.

Sixth. That for the payment of said expenses, the claim of Lafontaine, and a pro rata portion of such debts as might be awarded, there should be set apart and appropriated the *three* instalments coming to said tribe by virtue of the 3d article of the treaty of 1838, of \$12,568 each, to wit, the instalments of 1846, '47, and '48, amounting in all to \$37,704; leaving whatever balance might remain unpaid after said \$37,704 was exhausted, subject to further arrangement between the parties.

Seventh. That the award made by the arbitrators should be final as to the amount due each claimant.

Eighth. That no claim against individual Indians, who were not by treaty stipulations, or joint resolution of Congress, permitted to remain in Indiana, and draw their annuities at Fort Wayne, should be considered due and payable, until it should appear by the proper certificates of the sub-agent that said tribe had removed west of the Mississippi.

Besides these stipulations, there was an express request from the Indians to the President of the United States, that he would approve their agreement of submission, and cause said sum of \$37,704 to be retained and applied in accordance with the agreement.

While the arbitrators were engaged in the discharge of their duties, and before they had completed them, it was ascertained that the sum set apart in the aforesaid bond would not be sufficient to pay all the debts that were due. Accordingly, the Indians, *in council*, on the 2d June, 1846, signed another paper, which, after reciting the bond of the 8th May, 1846, and its conditions, in regard to the \$37,704, and their belief that this sum was not sufficient to pay their debts, set apart the further sum of \$17,500 for that purpose. This sum of \$17,500 was to

be paid out of their annuities, as follows: \$1,233 each year, for the years 1846, '47, and '48, and \$13,801 in the year 1849, at the time their said annuities usually fell due. It also set apart \$3,000 for the residuary legatees of J. B. Richardville, their late chief. [See exhibit F.]

This last paper also contained the declaration, on the part of the Indians, that the nation would not thereafter assume any individual debts; and the President was solicited to enable them to carry out that declaration and the aforesaid agreement.

It also contained a request that the President would approve and confirm the proceedings, and cause the \$20,500, (which included the \$3,000, set apart to the legatees of Richardville,) and the \$37,704 to be retained, and applied according to their agreement.

The parties (the Indians by their attorney Mr. Loveland,) adopted the following rules in relation to filing claims and the admission of evidence:

First. That all claims should be supported by the *oath* of the party having the legal interest in them; the form of which oath was prescribed, and was sufficiently broad and guarded to protect the rights of the Indians.

Second. That they should be set out in detail, as to quantity or number, quality, place, and date of sale, to whom sold—giving the names in full of the Indian purchaser.

Third. That the books of original entries should be produced, or their absence accounted for, according to the rules of legal evidence.

Fourth. That the *original consideration* of all notes, obligations, and judgments should be inquired into, and that they should, in no case, be even *prima facie* evidence of Indian indebtedness.

Fifth. That the arbitrators should, if they thought proper, examine the claimant as a witness under oath, giving such weight to his testimony as they thought proper.

Sixth. That tabular statements should be furnished by the claimants, exhibiting the amount of their capital embarked in trade, with the original bills of purchase, from whom purchased, and the place of purchase, the amount disposed of in the *white* trade, the cash account in full, the amount withdrawn from the trade, the stock on hand, and the amount collected at payments (Indian) and otherwise; or if such statements were not furnished, their loss or absence was to be accounted for on legal principles.

Seventh. That on all matters of price, quantity, quality, or other matter in dispute, the Indians or claimants might introduce the evidence of witnesses legally competent to testify; and might introduce *Indians also as competent witnesses*, leaving their credibility for the consideration of the arbitrators.

Eighth. That in every instance the claim should be *otherwise* proved by the best evidence, *according to the course of legal proceedings in other cases*.

Acting under these general rules, and such "subsidiary" ones as

were adopted by the arbitrators, they, on the 11th June, 1846, made the award which is now filed herewith, under their hands and seals, certified by one of the arbitrators under his seal as a notary public. They awarded to the creditors the sum of \$63,772 21, and \$2,582 to cover the expenses of the arbitration. Of this sum of \$2,582 for expenses, \$619 were for provisions for the Indians, and for rations for the Indians, commissioners, and magistrates, and \$400 as compensation for the attorney for the Indians. The whole sum allowed the creditors is \$66,354 21. Messrs. Berthelete and Avelin have since been paid the sum of \$10,000, Samuel Driver \$3,000, and Messrs. W. G. and G. W. Ewing \$3,000, which reduces the amount yet unpaid that much, to wit, \$16,000.

The "subsidiary rules," adopted by the arbitrators, are fully set out by them in the award, and furnish abundant evidence of the accuracy of their mode of investigation. They are as follows, to wit:

They gave such weight to the evidence of competent witnesses as, under the circumstances of each case, the standing, character, means of knowledge, and candor in testifying of the respective witnesses, it was legally and justly entitled to receive.

They generally, though not always, considered it material, whether the evidence adduced was *supported or contradicted by the statements of the indebted Indians*, giving such weight to the Indian statements as their character entitled them to. They were "constrained to believe" the statements of "*most of them*," (the Indians,) and "some to discredit."

They would not permit any communication between an Indian under examination and the claimants, except through the interpreter; and in no instance whatever was the admission of any Indian received through any other medium *than his own lips*, unless it was first proved that the Indian, whose admission or statement was offered was dead; and even then it was received with *many grains of allowance*.

They did not deem the admission of the Indians as conclusive, *unless supported by collateral facts*, or such a degree of intelligence and integrity, on the part of the Indians, as left little or no room for doubt. The arbitrators say "this distrust of Indian testimony we felt to be well founded, because of the facility with which it is notorious too many of the Indians can, under certain influences, be made to admit almost any thing."

They scrutinized more rigidly the other evidence, adduced in support of a claim, whenever it, or any part of it, was denied by the Indians.

They corrected such errors in the addition, charges, or credits, as could be discovered; extravagant charges were reduced to the prices which seemed to be the standard at the time and place of sale.

They fixed, upon the whole evidence before them, the rate *per cent.* of profit that each claimant was entitled to on his sales, above the original cost, considering, in each case, the quality of the article sold, the risk and expense of the business, the delay in collecting, and the gen-

eral character of the traffic, as circumstances to be estimated. The same principles, in relation to profit, were applied to all mercantile accounts.

The arbitrators take occasion to remark, in their award, that the traders, with one or two exceptions, "adopted a course alike candid and honorable."

They also show a strong determination to guard the rights of the Indians, by having, in some cases, awarded merely a *nominal* sum. These were cases where the claim was proved by "little or no evidence beyond the affidavit of the party." When this was the case, they awarded a nominal amount, that, in the spirit of the submission, it should "be forever put to rest."

The award, predicated upon these just and equitable principles, was brought to Washington by the Hon. G. N. Fitch, one of the arbitrators, and at present a member of the House of Representatives. About the 29th day of June, 1846, he presented it to Col. Medill, the Commissioner of Indian affairs, desiring that it should be filed in his office, and the wishes and agreement of the Indians executed. Col. Medill *refused to have any thing to do with it, would not receive it or file it in his office, and positively declined to examine it.* The result was, that Dr. Fitch was compelled to carry the award back to Indiana, which he did. [See his deposition, exhibit G.]

It was afterwards returned to the Indian office by Messrs. W. G. & G. W. Ewing, who deposited it there, together with other claims against several tribes of Indians—this whole class being known as the "suspended claims." After it was thus deposited in the Indian office, *it was not acted on by the commissioner.* Like a good many other claims which were then pending, (especially those in which the Messrs. Ewing had an interest,) the commissioner had determined that they should not be paid, (whatever their justice might be,) according to the previous practice of the Government. This practice, under the Intercourse act of 1834, had been, invariably, to permit the Indians to direct the manner in which their annuities and other money should be paid. The Government had always regarded them as having the power to do so, and the regulations of the department of Indian affairs had so provided. Upon this point, and the operation of the act of 3d March, 1847, I refer to the arguments of the same question in the case of W. G. & G. W. Ewing *vs.* The Pottawatamie Indians, and in the revocation of the Sac and Fox trading license of the Messrs. Ewing, printed copies of which accompany this. These arguments need not be repeated here. They sufficiently establish, I think, the authority of the Indians to control their own money, as well as the principle that the payments *per capita* to the Indians should, in no case, be made, so as to interfere with those contracts which were made before the passage of the act of 3d March, 1847.

The Commissioner of Indian affairs, in his last annual report, [page 42,] when speaking of a portion of the claims embraced in this award, says: "In regard to the six immediately preceding claims [all of which are embraced in the award] it is proper to state, that when the report

of the awards made by the arbitrators was presented for the approval of the Department, *it promptly and positively refused to have any thing to do with it*, the President having but a short time previously decided that the Government would not recognise, in any shape, claims against these Indians, which had arisen after the 25th February, 1841; the indebtedness of the Indians up to that time having been fully and finally settled by the President allowing the sum of \$75,000 to be paid out of the annuities of the tribe in instalments of \$12,500 per annum, that the annuities in future would be paid over to those entitled to receive them, when each Indian could pay his individual debts if he thought proper; and that such would be the settled policy of the Government, and would under no circumstances be departed from. *The claims were twice presented, fully considered, and rejected, both by the Department and the President.*"

I have been not a little surprised at this language of the late Commissioner of Indian affairs; and I am sure no man can be otherwise who will take the trouble to look into the history and character of this case. When it is considered that it was the duty of the commissioner to report to Congress that only which was true, it will be hard to find an apology for this statement. The papers on file in the Indian office show that it is not true, as the following reference to them will fully prove.

Indeed, the commissioner himself, in the statement I have quoted from his annual report, shows that it is not true:—he contradicts himself. He says: "When the report of the awards made by the arbitrators was presented for the approval of the Department, *it promptly and positively refused to have any thing to do with it.*" This is true, as will be seen by reference to Dr. Fitch's deposition. And if true, how could it be that they were "*fully considered, and rejected, both by the Department and the President?*" Did the President and the Department *fully consider and reject* claims with which they "*promptly and positively refused to have any thing to do?*" The commissioner could not, possibly, have well considered the force and meaning of his own language. But without comment upon his language, I proceed to show what appears from the papers on file.

I have already shown that the President, on the 30th of March, 1846, decided that he would not appoint commissioners to investigate and report upon the debts; and that this decision was based only upon the memorial which the Indians had adopted at their council of the 4th of December, 1845, there being nothing more before him. On the 2d of April, 1846, Col. Medill addressed a letter to Joseph Sinclair, the sub-agent who had forwarded the memorial, in which he acknowledged the receipt of the memorial, with his letter of the 19th of January. In this letter he copies precisely the words of the President, as I have already quoted them, and says: "This decision of the Executive of course puts an end to the business, and is communicated to you, in order that you may give an answer to the petitioners." [See exhibit H.] This is all he says. It amounts only to this—that as the Presi-

dent had declined to appoint the commissioners, that was an "end to the business" of the memorial. The memorial asked for nothing more, and, of course, the refusal to grant it could have reference to nothing but what it contained. The Indians and their creditors were left, under the direction of the President, to settle their debts themselves, "*like other individual debts.*"

The President did not decide—for he was not called on to decide—that when the debts were settled the Government would disregard the wishes of the Indians in regard to their payment. The act of the 3d of March, 1847, authorizing *per capita* payments, had not then been passed, and the President could have reference to nothing more than his right to interfere in the *mode* of settlement. The Indians who asked for the appointment of the commissioners had at that time, according to the practice of the Government, the right to control the annuity of the nation. It is not possible, therefore, that it entered into the mind of the President to deny them this right; for it was not until the passage of the act of 3d of March, 1847, [*nearly a year after,*] that Congress gave him the power to deny it. The 11th section of the Intercourse act of 1834 provides, "that the payment of all annuities, or other sums stipulated by treaty to be made to any Indian tribe, shall be made to the *CHIEFS of such tribe*, or to such person as said *tribe shall appoint*; or if any *tribe shall appropriate* their annuities to the purpose of education, or to *any other specific use*, then to such person or persons as said *tribe shall designate.*" The 30th paragraph of the regulations of the Department under this act shows the interpretation which the Department put upon it, by declaring that it permitted "any *tribe* to appropriate their annuities to the purpose of education, or to *any other specific use,*" under the direction of the Executive, and with the sanction of the Secretary of War. Under this act and these regulations, the annuities of the Indians had always been paid to the *chiefs*, who were the constituted authorities of the tribes, and appropriated by them to the payment of their *national* debts, or otherwise, as they thought proper. The application of the Miamis, then, for the appointment of commissioners, and that a part of their annuity might be set apart to pay their debts, was fully authorized by the practice of the Government; so far, at least, as it involved their right to direct the payment of the money. The act of 3d of March, 1847, gave the discretionary power to the President to continue this mode of payment, or to change it to the *per capita* mode. But as this act was not passed until after the decision of the President, it is, beyond all question, true, that he could not have decided any thing in relation to the right of the Indians to control the money, but that he decided only the question of his power to appoint commissioners. He said nothing about *payment*. He spoke only of *settlement*, and of this he said—"like other individual debts, they must be *settled* by the *parties themselves.*"

And it is very evident, from what subsequently transpired, that the Indians, the creditors, the sub-agent, and *Colonel Medill*, all so under-

stood him. That the Indians and creditors did so, is sufficiently shown by the fact that they had the arbitration, and have each pressed the confirmation of the award upon the Department in almost every possible form. Sinclear, the sub-agent, shows that he did, from his letter of the 29th April, 1846, to Colonel Medill. In it he says: "I have just returned from a council with the Indians under my charge; they assembled, at the request of their chiefs, for the purpose of making some arrangement for the settlement of their late debts."

"It was agreed in council that an investigation should be commenced in two weeks from this day; and the Indians have selected Captain Elias Murray, of Huntington, Dr. G. N. Fitch, and ——— Stewart, esq., of Logansport, as commissioners to conduct the investigation; *these are good men*, and will, I presume, afford proper protection to the interests of the Indians." [See exhibit I.]

If Sinclear had not supposed that the arbitration was satisfactory to Colonel Medill, and fully justified by the decision of the President, it is not to be supposed that he would have thus written to the commissioner, or that he would have been present and aided at the arbitration.

And he was right in his conclusion; for it had not then entered into the head of Colonel Medill to object to the arbitration, or to control the Indians in any way, in their right as a nation, to direct the payment of their debts. If he had intended at that time not to sanction the arbitration, why did he not so inform the sub-agent, in reply to his letter of the 29th of April, and, through him, also inform the Indians? As the arbitrators were not to meet until two weeks from the date of Sinclear's letter, there was abundant time to put a stop to this expensive mode of settling the debts; and a letter from him, at that time, would have accomplished that result. Instead, however, of indicating the slightest objection to it, he caused to be endorsed on Sinclear's letter—"No answer required." [See exhibit I.] He must be taken, therefore, to have approved it; for, as he knew the arbitration was arranged in the presence and under the direction of the sub-agent, his silence is an acquiescence in it.

After the award was made, the Indians held another council, and appointed Dr. Fitch to accompany some of their chiefs to Washington to have it confirmed. They selected as their delegates Francis Lafontaine, the principal chief, Pish-a-wah, Me-ze-quah, Pim-y-o-te-mah, and Wa-pa-sip-pow, who in company with Dr. Fitch came to Washington. After they reached here, they filed with the Commissioner of Indian affairs a memorial, attested by Dr. Fitch and George Hunt, their interpreter, asking that the award should be filed and confirmed. They expressed the great desire of their nation to have their debts paid, and prayed the commissioner, if he would not confirm the award, to point out some mode for them to do so, as they were justly indebted for "*clothing and provisions*," when they *were in want*. They also stated to him that, after paying them, they would still have out of their annuity *fifty dollars per head*. [See exhibit K.]

At the same time Dr. Fitch, as the friend and agent of the Indians,

addressed a letter to the commissioner, in which he says, that there certainly would have been no arbitration if it had been known to the parties interested that it was the *pre-determination* of the Department not to confirm the award. So far, however, from there having been the slightest suspicion of such a thing, "*the agent was present at the very commencement of the investigation, before any steps were taken, before any expense was incurred, and had he then made known the determination of the Department, nothing would have been done in the premises. So far from making it known, however, he encouraged the investigation, was present during several days of its continuance, dictated one or more of the articles of agreement between the claimants and Indians, and promised to write a letter to the Department recommending a confirmation of its award.*"

If a man, prompted alone by the wish to do justice and right, were to look at the facts of this case up to this point, it would be hard for him to find a single reason why this award should not have been confirmed, according to the earnest wish of the Indians. The practice of the Government of paying the annuities to the chiefs, *as a nation*, yet prevailed. The act of the 3d of March, 1847, authorizing the President to direct the payments to be made *per capita*, if he thought it best to do so, had not then passed, and there was therefore no legal objection to it. The arbitration was held, at least, with the implied consent of the commissioner, and with the express approbation of the sub-agent. It was fairly conducted, under rules not only just, but rigid. The arbitrators were gentlemen of the highest character for intelligence and integrity. The Indians had selected their own delegates and agent to bring the award here and urge its confirmation, as they were satisfied it was just and right. The debts had been created for "*clothing and provisions*" when the Indians *were in want*. The vouchers, invoices, and minutes of the evidence were here, to show that the accounts were fairly proven. What imaginable and honest objection could there be, then, to the confirmation of this award? It is very certain that none is exhibited in the facts of the case. Perhaps, before I get through, I shall present other circumstances and facts, which will develop the motive of Colonel Medill.

Instead of confirming the award, or condescending to notice that part of the memorial of the Indians which asked that he would point out *some* plan for them to pay their debts, as they had been created for "*clothing and provisions*" when they *were in want*, Colonel Medill, on the 1st of July, 1846, replied in writing to the memorial of the chiefs, and positively refused to have *anything to do with the award, or with them on the subject of their debts*. He said to them—"After the decision of the President on this subject, in March last, it is certainly a matter of some surprise that either any portion of your people or the claimants themselves should entertain any expectation that the determination of the Government, thus made known, would be departed from. I have now to say to you, and to all concerned, in the *most explicit*

manner, that being fully satisfied of the propriety of that determination, it cannot and will not be changed."

He then goes on to say, that the decision of the President had been "communicated to the agent to be made known to the Indians," and that "*in that decision they were given distinctly to understand that the Government would have nothing to do with the debts in question, but that the annuities would be paid over to those entitled to receive them, when each Indian could pay his individual debt if he thought proper.*" This course is now, as it always should have been, the settled policy of the Government, and will under no circumstances be departed from."

He continues: "*The proceedings of the persons appointed as commissioners by the Miamies can in no way be recognised; and no provision can therefore be made by the Department for the payment of any expense connected therewith.*"

There are several inquiries which naturally suggest themselves, in examining these reasons of Colonel Medill, why he would have nothing to do with this award, and it is necessary to a full understanding of the case that they should be noticed.

First. He assumes, and pertinaciously adheres to that assumption, that the decision of the President, in March, 1846, amounted to a *rejection of the claims*, and predicates *his* decision upon this idea. I have shown that he has wholly mistaken the decision of the President, and that it could have no reference to the *claims*, as the *only* question before him was the request of the Indians to appoint commissioners. Their memorial had reference to *nothing else*, and the language used by the President shows, beyond question, that he intended to decide *nothing else*; for, I repeat, that so far as the debts were concerned, he left them to be settled "*by the parties themselves.*" It is therefore clear that Colonel Medill was not authorized to say that these claims had been rejected by the President. And as the reason for *his* decision is thus shown to be altogether without foundation in fact, the decision amounts to nothing.

Second. He asserts that the decision of the President was made known to the Indians, and that "*in that decision they were given distinctly to understand that the Government would have nothing to do with the debts in question, but that the annuities would be paid over to those who were entitled to receive them, when each Indian could pay his individual debt if he thought proper.*"

Now, it is not true that, by the decision of the President, the Indians were "given distinctly to understand" what is here stated, or any thing like it. I have already said that they were "given distinctly to understand" but *one* thing, and that was, that the President would not appoint commissioners. Not a word was said by the President about having "*nothing*" to do with the debts in question," nor about paying the annuities *only* "to those entitled to receive them," nor about "*each Indian*" paying "*his individual debt if he thought proper.*" If the President had so decided, and these facts had been communicated to the Indians and the creditors, is it to be supposed that the arbitration

would have been held? Nobody can believe that it would, if it had been known to the parties that it had been already determined not to confirm it. Would either the Indians or the creditors act in direct conflict with a known opinion of the President? The idea which seems to have been uppermost in the mind of Col. Medill is as preposterous as his assertions are gratuitous and unfounded. Nor is it true that what is here stated as the opinion of the President *was* "*communicated to the agent* to be made known to the Indians." By reference to the letter of Col. Medill to Sinclear, of the 2d of April, 1846, it will be seen that he only copies, in *hæc verba*, the words of the President, and then says: "This decision of the Executive of course puts an end to the business, and is communicated to you in order that you may give an answer to the petitioners." (See exhibit H.) Now, what did the decision of the President "put an end to?" Of course, nothing more than the "business" of the memorial, which was confined to the question of appointing commissioners. And what "answer" was Sinclear to give "to the petitioners?" Certainly none other than that which was contained in the decision of the President, which was, that there was "an end to the business" of the memorial, but that as to the *debts*, "they must be settled by the *parties themselves*."

What then becomes of Col. Medill's assertion that Sinclear had been instructed to tell the Indians that, by the decision of the President, "they were distinctly to understand that the Government would have *nothing* to do with the debts in question, but that the annuities would be paid over to those who were entitled to receive them, when each Indian could pay his individual debt if he thought proper?" I have both shown that the President did not so decide, and that Col. Medill did not so instruct Sinclear. And the testimony of Dr. Fitch proves that Sinclear did not understand himself to have been so instructed; for he was present, and aided in the arbitration by suggesting some of the rules which governed the conduct of the arbitrators, and promised to aid in procuring the ratification of the award by the Government. He would not, of course, have done this if he had been instructed that the Government would have had nothing to do with it.

Third. Col. Medill, in speaking of the payment of the annuities "to those entitled to receive them," so that "*each* Indian could pay his individual debt if he thought proper," says: "This course is *now*, as it always should have been, the settled policy of the Government, and will, *under no circumstances, be departed from*." I have already shown that the 30th paragraph of the regulations of the Department, under the Intercourse act of 1834, permitted "*any tribe* to appropriate their annuities to the purpose of education, or to *any other specific use*;" and that, under these regulations, the money had been paid to the *chiefs*, or, by *their direction*, to their creditors. I have also shown that the act of Congress which authorized the payment to *individual* Indians was not passed until the 3d of March, 1847. By what authority, then, did the commissioner fix it as "the *settled* policy of the Government" that the creditors could not get their debts paid, unless

“*each Indian*” thought proper to pay what he *individually* owed? He says that was the “*settled policy*” on the 1st of July, 1846, and would, “under no circumstances, be departed from.” Yet the law which authorized that policy did not pass Congress until the 3d of March, 1847, seven months *after* the policy had been “settled” by *him*! If he had intended to change the regulations under the Inter-course act of 1834, he should have promulgated whatsoever change he designed, that both the Indians and their creditors could have known what to expect. But, instead of that, he permits the regulations to stand unchanged, and debts to be contracted under them, at a time when the *tribe* had a clear right to control the annuity; and when all the authorities of the tribe asked for their payment, he makes known, for the first time, a *new* rule of “*settled policy*,” which was, that “*each Indian*” must pay his own debt. Such conduct is both arbitrary and unjust. It is difficult to find a motive for it, unless it be in that petty malice which is so often found in little minds, and which is the usual accompaniment of ignorance. Col. Medill was determined that he would make the *Indian traders*—the “*rascally traders*,” as he took pride in calling them—feel *his* power; and his decision in this case is one of the means he took to accomplish that object. How different his conduct from that of the high-minded public officer, who discharges his *duty* by doing *right*, let the consequences be what they may.

Now, so far as I represent the parties in this case, or any other *Indian traders*, I have this to say—that I shall not ask, nor will I have, any thing in their behalf, which I do not believe to be legitimately their due. I ask the fullest and closest scrutiny into every claim of theirs which may be advocated by me. Wherever they are wrong, reject them. But, at the same time, I assert, that these men have rights, as American citizens, which cannot be overlooked by the Government without a violation of the plainest principles of justice. They embark their capital in an uncertain trade, under the promised protection of the Government, and the Government acts in *bad faith* when it withdraws that protection. They are as necessary to the civilization and comfort of the Indians as any other instrumentality which is employed, and it is wrong, in every sense, that they should be persecuted and impoverished by the arbitrary conduct of public officers. The Supreme Court of the United States, in the case of *the United States vs. Clark*, 9 *Peters*, 168, when speaking on this subject, says—“It would have been a violation of the faith of the Government to both [Great Britain and Spain] to encourage traders to settle in the province, to put themselves and property in the power of the Indians, to suffer the latter to contract debts, and when willing to pay them by the only means in their power—a cession of their lands—withhold an assent to the purchase, which, by their laws or municipal regulations, was necessary to vest a title. Such a course was never adopted by Great Britain in any of her colonies, nor by Spain in Louisiana or Florida.” It is greatly to be regretted that Col. Medill did not make himself familiar with the

principles of justice contained in this opinion of the highest judicial tribunal in the country.

After the Indian delegation, accompanied by Dr. Fitch, had returned from Washington with the award, and reported to the nation the result of their interview with Col. Medill, another council of the nation was held. The result of this was, that another memorial was drawn up, and signed by *eighty-one* of the chiefs, headmen, and members of the tribe, and addressed to the President. This was done on the 29th of June, 1846, and it enters into a detailed statement of the whole matter. It re-affirms what had been stated by their delegation, at Washington, in regard to the confirmation of the award; says that they were encouraged by Sinclear to have their debts arbitrated, and that it would not have been done if they had not supposed it was approved by the Government; that their nation was anxious to have it confirmed, as they wanted to pay their debts, and that the debts were created for food, clothing, and other things which they needed.—[See exhibit L.]

Accompanying this memorial were the original arbitration bond, signed by the Indians and their creditors; the second bond, which set apart additional money to pay the award; the petition of *two hundred and seventy-five* citizens of Indiana, endorsing the high character of the arbitrators, and asking that the award be confirmed, [see exhibit M;] the proper certificates, showing that the arbitrators were sworn, [see exhibit N;] and a letter from Dr. Fitch to the President, dated 5th of August, 1846.

These papers were all placed before the Commissioner of Indian affairs, Col. Medill, to be laid before the President, as the memorial was addressed directly to him. Col. Medill *refused to have them sent to the President, and returned them to Mr. Brown, with the following endorsement: "This case was decided by the President before Dr. Fitch came on, and he informed of the fact. I cannot consent to be made the medium of laying these papers before the President, for whom alone they are intended, and therefore return them."*

Here again Col. Medill is unfortunately wide of the facts in the case. The President *did not* decide the *case* which was then before him; for the President, up to that time, had never seen the award or any of the papers communicated to Col. Medill by Mr. Brown. I have already shown that he did nothing more than refuse to appoint commissioners. Here, however, was another and a new case. The debts had been ascertained, and the whole nation was clamorous for their payment. The papers communicating these facts to the President had not been laid before him, and it was, consequently, impossible for him to have decided that the Government would not notice the award. The reason, then, assigned to Mr. Brown, why the commissioner would not permit himself to be made the medium of laying the papers before the President, is wholly unsupported by any single fact in the case; and the only inference, therefore, to be drawn from it is, that Col. Medill was influenced more by *private* and *personal* than public considerations. Such, I think, the whole case shows, most conclusively.

When the papers were returned to Mr. Brown, he, on the 22d of September, 1846, laid them directly before the President, stating their return to him by Col. Medill, and requesting that he would order them to be filed in the office of the Commissioner of Indian affairs. This was the *first* and *only* time that the President had notice of the award, officially, and of the proceedings subsequent to the award. He received the papers from Mr. Brown, examined them, found that it was the anxious desire of the whole Miami nation to have the award confirmed and their debts paid, and, on the 23d of September, 1846, made upon them, in his own handwriting, the following endorsement: "*Returned to the office of the Commissioner of Indian affairs.*"

Here, then, was the *only* decision the President ever made upon the award, or upon the request of the Indians to have it confirmed. The Commissioner of Indian affairs had refused to have any thing to do with the award, or to let it and the memorials of the Indians be placed on file in his office, or pass through his office to the President; but the President, more just than he, so soon as *he* looked at the papers, returned them to the office of the commissioner and *ordered* them to be filed. Pursuant to this order, they were filed, and thus were placed amongst the records of the Government, in despite the obstinate resistance of Col. Medill.

Now, I regard *this* decision of the President as most important, and as showing that the construction I have put upon his first decision is the true one. He originally refused to appoint commissioners, because his power to do so, as provided for in the treaty, had expired, but left the parties to settle their debts in their own way. This they did by the award, and when that fact, with the matters set forth in the memorial of the Indians was brought before him, he immediately decided that the papers *should* be placed on file in the office of the Commissioner of Indian affairs. And why placed there? Not simply to be preserved and not acted on. This would represent the President as trifling with the parties, which, it is evident, he did not intend. They were placed there to be brought within the jurisdiction of the commissioner, and to be decided by him. So far, then, as the President has ever decided any thing in relation to the award, *he has decided in its favor*. He has not, it is true, decided any question upon its merits; for this he was not called on to do. He has, however, in effect, decided that the matter should be looked into, and has *ordered* the papers to be filed for this purpose.

But how has Col. Medill treated this order of the President? Instead of taking jurisdiction of the case, and deciding it upon its merits, so that justice might be done between the parties, he has refused to examine the papers, to take cognizance of the award, or to aid the Indians, in any way, to pay their debts. And he has done more than this; he has reported to Congress and the country, in view of all these facts, that "*the claims were twice presented, fully considered and rejected, both by the Department and the President.*" This was the

language of his last annual report, and cannot fail to strike with surprise all those who will look into the facts which were before him when he wrote it. So far from its being true that the *claims* were *twice fully considered and rejected* by the *Department* and the *President*, it is true that they were never *fully considered* by either the Department or the President; but that so far as they were acted on at all by the President, *he decided in their favor!* It is no pleasure to me to comment upon the conduct of a public officer who acts as Col. Medill has acted in making this assertion in his report. It furnishes a most humiliating evidence of the extent to which a man may be carried by his *prejudices*, when he once yields himself to their influence.

I have thus completed the entire history of this case—tedious it may be, but necessary to a perfect understanding of it. It is one of those cases about which there need not, in the first instance, to have been any difficulty. There was no real difficulty about it, and no extraordinary impediments in the way of a speedy and satisfactory adjustment of the whole matter. The Indians were in debt for “*clothing and provisions*” furnished them when in *want*, and felt a strong moral obligation to pay, but Col. Medill *would not let them pay!* His fixed prejudices against their creditors induced him, regardless of right and justice, to withhold the consent of the Government, although by doing so he has *taught* the Indians *dishonesty*, so far as he could. I will not say that he designed so to teach them, but that is, beyond question, the necessary effect of his conduct. Had there been, in this case, even the slightest *suspicion* of fraud on the part of the creditors, or had the arbitrators been men of doubtful character for integrity, he might have found, in such a fact, apology for what he has done. But nothing of this kind existed. The creditors acted throughout fairly and honorably. The arbitrators were gentlemen of the highest character for intelligence and integrity. The rules adopted by them show that they guarded, most carefully, the rights and interests of the Indians. The Indians were themselves present, and were also represented by a competent attorney, of their own selection. Two of the arbitrators were selected by them. The agent of the Government was present, gave the whole proceeding his countenance, informed the Government of it, endorsed the character of the arbitrators, and did all he could to protect the Indians, by suggesting some of the rules for the government of the parties. Under such circumstances as these—so fair and just on both sides—there is neither apology nor excuse for the conduct of Colonel Medill.

This case, then, stands fairly upon the award, and the request of the Indians that it should be confirmed and paid, and neither reason nor justice require any farther delay in deciding it.

Independent of the sanction given to this arbitration by the Government officers, had the Indians power to make it? A tribe of Indians must be treated by the Government of the United States as a distinct political society, capable of managing its own domestic affairs, and governing itself; consequently, the Government of the United States,

strictly speaking, has no right to intrude upon its interior affairs or interfere with its self-government. As a weaker power, it does not surrender its independence by associating with a stronger, and taking its protection; therefore, although it may, in *some* respects, occupy towards the United States the relation which a *ward* does to a *guardian*, yet it has still the right to contract debts and provide for their payment. 'This is a power necessarily incident to their *national* character. The tribes are called by the Supreme Court of the United States, "*domestic dependent nations*," but yet when treating with them for their lands we have to recognise them as nations in the same sense in which we hold foreign nations. The Constitution declares all treaties to be "the supreme law of the land," and this applies alike to a treaty with the Miamis and with Great Britain. In forming a treaty with them, we recognise them as capable of making a contract of the highest nature. We have no rightful power to prescribe a single condition of the contract. They accept or reject, at their pleasure, whatsoever terms we propose, and, in their turn, propose their own. The only authority which the Constitution gives the Government over them is the power to "*regulate commerce with*" them. We have no power to regulate any thing else but *commerce*, and this we have done by declaring that certain persons only should trade amongst them, and that certain things should not be sold to them. The exercise of this power operates alone upon the citizens of the United States, *not upon the Indians*. They may buy from whomsoever they please, and whatsoever they please, and we have no power to forbid it, or to punish them for it. The fact is, they are as independent over *their own* domestic affairs as we are over *ours*, and we are guilty of usurpation when we seek to limit or control this right. It is perfectly clear, then, that they have full power to contract debts and to pay them; and that, having such power, they could determine the amount of their indebtedness by arbitration.

The idea that the Indian tribes are to be treated as mere *minors*, having no power or authority over their own affairs, is of recent origin. In our intercourse acts up to that of 3d March, 1847, they have been recognised as *nations*, transacting all their business with the Government of the United States by and through *their* constituted authorities, their chiefs, headmen, and warriors. I have already shown that the act of 1834 gave them full control of their own money and property, by making the annuities payable to the "*CHIEFS*," or to *their order*. Individual members of the tribe, who were not chiefs, were no more known to that law, than are individual citizens of the United States known in transactions with our Government. The *chiefs* sold the Indian lands, agreed upon the terms of treaties, fixed the amount to be paid, received the money and receipted for it at the Treasury, or at such other point as it might for convenience be paid. The Government held no intercourse whatsoever with members of the tribes below the rank of chiefs and headmen. For whatsoever rights belonged to them, they were compelled to look to their *chiefs*, just as the citizens of the United States look to those officers who administer our law. The

chiefs were the *supreme authority* of the *nation*. Such they were regarded by the Governments of Great Britain, France, and Spain, in all their intercourse with them on this continent; and so they have been declared to be by the Supreme Court of the United States. In *Worcester vs. The State of Georgia*, 6 Peters, 515, that court says—"The Indian *nations* had always been considered as *distinct independent political communities*, retaining their original natural rights," &c., "with the single exception of that imposed by *irresistible power*," &c. They say that we have applied the words "*treaty*" and "*nation*" to them, "as we have applied them to *other nations of the earth*. They are applied to all *in the same sense*." Does it not appear, then, a strange perversion of terms to talk about those who occupy these relations to us being our *wards* and we their *guardians*?

So forcibly was this idea of the power of the Indian tribes to control their own *domestic* affairs, impressed upon the Committee of Indian affairs, which reported the Intercourse act of 1834, that in their report it is questioned whether the Government of the United States has the authority to appoint *agents* and *sub-agents* to reside amongst the tribes, except by treaty stipulations. The committee say—"The rights of the Indians are to be secured in the possession of their lands, and in the exercise of *self-government*. The obligations of the United States are correlative to secure them in the title and possession of their lands, in the exercise of *self-government*," &c. How is it possible that this right can exist or the correlative duty of recognising and preserving it be discharged, if all authority is taken from the *chiefs* and *headmen*; the domestic arrangements of the tribes entirely disregarded, and the Government of the United States becomes the *guardian in fact* of every *individual* Indian? I agree that the relation existing between the Government and the Indian tribes, is *in the nature* of that between *guardian* and *ward*. This is what the Supreme Court has said; but they have gone no farther. They are "*domestic dependent nations*;" but, at the same time, "*distinct independent communities*." They are *dependent* only because it is our duty, as a civilized people, to employ, by advice and example, all the means within our power to elevate them and improve their condition. They are *independent*, because they have a right to reject both our advice and example, and pursue their wandering life in preference to one governed by law. Certainly, we have never regarded them in any other light than this, in the numerous treaties we have made with them. In all those treaties we have recognised their *chiefs, warriors, and headmen* as representing their popular sovereignty, in the same manner in which the officers of our Government represent our popular sovereignty. Does it not seem to be the height of absurdity, that, the moment we consummate a treaty, our relations with them change, and instead of being a nation, they become *wards* and we their *guardian*, and that *without their consent*? We have claimed and exercised almost unbounded power over them, which we have justified on the ground that we were extending the influences

of civilization and christianity—but this goes a bow-shot beyond any ever exercised heretofore.

As an illustration of the extremity to which this idea is *practically* carried, let us take the mode which *now* prevails of executing the law of 3d of March, 1847, with *all* the tribes. By the direction of the President, under that law, the annuities are paid out, *per capita*, to the *heads of families*. Those annuities are the consideration paid by us for their lands, by treaty made with the *chiefs*—for nobody ever supposed, I imagine, that treaties were made with those who are not *chiefs, headmen, and warriors*. The treaties provide that they shall be paid to the *nation*; but instead of doing that, we assume that we are the *guardian*, not of the *nation*, but of the *individuals* of the nation, and *divide them out per capita amongst them!* The moment we have made a treaty, recognising a *nation*, we abrogate it by violating its most essential feature; that is, the one which recognises the *nationality* of the tribe. And this is done, because we claim to interfere with the *domestic* affairs of the tribes—and for fear the chiefs, headmen, and warriors shall not discharge *their* duty to the tribes, by dividing the money equally or justly, we step in between *each individual* Indian and the chiefs of his tribe, and as *his guardian* pay him *his per capita share* of the nation's money!

But what is the practical effect of this mode of payment upon the Indians themselves? It must be evident to any man who will reflect upon it that it has an injurious tendency. The first prominent effect of it is to destroy in their minds every idea of nationality. Even in their rudest state they have this idea, and almost all the tribes have hereditary chiefs, to whom they look for counsel, and they have counsellors who are selected as their advisers. Now, when you have an annuity payment to make to a tribe, if you make no distinction between these chiefs and counsellors and the vagabond Indian, you degrade the former, while you give additional importance, *in his own estimation*, to the latter. These headmen are generally disposed to elevate the condition of their tribes; but this they can never do if the Government of the United States reduces them to a level with the lowest members of their tribes. But the effect is still more degrading upon the Indian proposed to be benefitted by being protected from his chiefs. Instead of working for a support, he looks to his share of the annuity; and when it is received spends it for liquor, and then lives until another payment upon the charity of the tribe. The Indian has a natural aversion to work, and will never do it until driven to it by necessity. This necessity he does not feel so long as you take the money of his *nation*, and give him *his share* of it every six months. And if he feels it, he will never recognise it, if you degrade all the chiefs and headmen to *his level*, and become the *guardian* between *him* and *them*. And that is what the Government of the United States is now doing under the law of 1847. It first assumes that the chiefs will *cheat* the other members of the tribe, and then steps in between those members and the chiefs, and becomes the *guardian* of every *spendthrift* in the nation, to see that his *nation*

shall not defraud him! I utterly deny that the Government of the United States has any such power under the Constitution.

I confidently assert the proposition to be true, that the *chiefs, head-men, and warriors* of the Miami nation had a clear right to agree to this arbitration—the same right precisely that they had to sell to the United States the lands of their nation. Having this right, the Government should not have interposed any obstacle to the payment of the award. It was wrong to do so in a two-fold sense; *first*, because, under the law of 1834, the right was guaranteed to the Indians; and, *second*, it had the effect of teaching the Indians *dishonesty*. They felt themselves bound to pay their debts, and were disposed honestly to do so; *but the Government would not suffer them to do it!* The late Commissioner of Indian affairs refused at all times to have any thing to do with the matter; and after the passage of the act of 3d of March, 1847, directed all the money of the nation to be distributed *per capita*, so as to put it out of the power of the nation to pay a dollar, except what *individuals* chose to pay. But he went farther than this, by instructing the officers of the Government that, under the law of 1847, *all executory contracts with an Indian tribe were null and void*. In his instructions of the 30th August, 1847, he directs that “the annuity and other money and goods due to the Indians be paid and distributed to *heads of families*, and to *individuals without families* entitled to participate therein, unless a different mode of payment or distribution is expressly required by treaty stipulations.” He knew at the time these instructions were issued that there were many subsisting contracts for the payment of money unexecuted with the various tribes. Some of the creditors under this award had brought the matter to his notice, and had protested against the law of 1847 being so construed as to interfere with their legal rights by impairing the obligation of their contracts—contracts which were warranted by the law and the regulations of the Department in existence at the time they were made. They procured the opinions of distinguished gentlemen to show that they were only asking for common justice—these opinions corroborating their own. [See the letter of Gen. Cass and Col. Benton, and the opinion of Judge Bowlin, exhibits R, S, T.] But all this had no effect upon him; he had resolved upon his course, and did not stop to count the cost. Therefore, to sustain the view indicated by the extract I have just quoted, he denied, in these same instructions, that the Indians could make a *binding contract*, because there were “*no civil courts or remedies in the Indian country*” to enforce them!”

And what has been the effect of this upon the Indians? It has encouraged them in a disregard of their moral obligations, by taking from them the means of paying their debts when they were willing to pay them. By the law of 1834, if Indians were credited at all, the trader was compelled to look to the nation for his debt. These debts were created under that law; but these instructions of the late commissioner assumed the ground that, although they were created under the law of 1834, and although the nation had liquidated them pursuant to that

law, and the instructions and regulations of the Department under it; yet, under the law of 1847, the money might be taken from the *nation*, given to *individuals*, and both be told that *no contract was binding upon them*, so that they might refuse to pay their debts. And this effect has been accomplished. The result is, the large suspended debts against the tribes which are now before the Department.

But it is not true that the law of 1847 makes all *executory contracts with an Indian tribe null and void*. This is its language: that "all executory contracts made and entered into by ANY INDIAN for the payment of money or goods shall be deemed and held to be null and void, and of no binding effect whatsoever." This language has reference to a contract with a *single Indian*, not with a *tribe*, and means nothing more than that the Government should not recognise an *individual* of a tribe so as to be required to execute a contract which he may make. And there is an evident propriety in this as a rule of action for the Government. It has always been the policy of the Government, so far as contracts are concerned. The money in the treasury, under an Indian treaty, belongs to the *nation*; and if the Government were to recognise the right of a *single Indian* to contract it away, the whole fund might be subject to his control, as there would be no means of fixing a limit to his right. Therefore, the law of 1834 paid it to the nation, that *individual* rights might be settled afterwards, and by the constituted authorities of the tribe, whatever they might be. Hence the system of *per capita* payments is in derogation of the rights of the nation; for it makes the Government recognise an *individual* of the tribe, and assume to be *his guardian*, while it refuses to have any thing to do with the *government* of the tribe, except to make a treaty with it by which it acquires the land of the tribe.

The practical working of this system of the late commissioner is this: it makes *one* contract with a tribe—that is, to buy its lands—then refuses to recognise its right to make another, even for clothing and food; and when either the tribe or an individual of it has made one for *actual necessities*, tells them they are under no obligation to execute or pay it, because there are "*no civil courts or remedies in the Indian country*." Is this the kind of advice that a *guardian* should give to his *ward*, when he is seeking to elevate his moral sense, and give him proper notions of right and wrong? Our conduct towards the Indian tribes has too long been characterized by cruelty and oppression. Let us not now, when they are disappearing before our advancing population, fix the additional stigma upon our nation of seeking to inculcate principles amongst them which will still further demoralize and degrade them.

But I maintain, without the fear of contradiction by any good lawyer, that whatever may be the interpretation of the act of March 3d, 1847, it cannot justly and constitutionally be made to operate *retrospectively*, so as to impair the obligation of contracts existing at the time it was passed. I have already referred to the printed pamphlet containing an argument upon that point; and, in addition to what is there said,

will only remark, that in the recent decisions of the Supreme and State courts in relation to appraisement laws there is ample authority for this position. It cannot be escaped by assuming that there are "*no civil courts or remedies in the Indian country*," for there were both civil courts and remedies where these debts were contracted. They were contracted in Indiana, where the creditor had the right to the benefit of this principle, and where, if he had not discharged the individuals of the tribe, by agreeing to look to the *nation*, he might have had the benefit of the writ of *ne exeat*. But the law of 1834 being in force, which authorized it, he agreed by this arbitration, under the sanction of the Government officer, to look to the nation, and hence the writ had no force. The Government, then, cannot step in and prevent the execution of this contract without a disregard of the Constitution and a violation of his legal rights.

What good reason is there why this award should not be executed? The submission was made pursuant to the strictest forms of law—each party having executed bonds to abide the award, and the arbitrators having been sworn. The Indians themselves could not legally go behind and impeach it, except for fraud, or mistake of law or fact. They do not desire to impeach it. On the other hand, they sent a deputation here and prayed its confirmation, urging the Commissioner, in the strongest terms, to do so. And when they failed in this, other members of the tribe besides the chiefs interfered, and more than *eighty* of them demanded that it be confirmed, in a memorial which not only answers all the objections of the commissioner, but rebukes him for some of the reasons he has assigned against it.

But the deposition of Dr. Fitch exposes *one*, at least, of the reasons why the award was not executed by the late commissioner. He says: "He [the commissioner] furthermore told me that he had *made up his mind* in regard to the claims covered by the award, and that he was determined their payment should not be encouraged by any action of the Department; that he had information that all the traders were a pack of rascals, and the *Indians and arbitrators* their dupes, or language to that effect. I asked him for his information or authority for such declaration, and he exhibited or read to me a *private* letter from *one of the claimants*, who had written him something to that effect." Now, it may well be inquired, what right had the commissioner, or has any public officer, to decide a question, involving the interests of a citizen of this country, so as to "*determine*" *before hand*, that these interests shall be disregarded? If this Government were the property of those who hold public office, and they were charged with the task of dispensing justice according to their own notions of it, and regardless of the fixed and recognised rules of law and right, then this right might exist. But such is not the case. The Government is the property of the people, and they have deputed no other power to public officers than those defined by law. The very moment, therefore, one of these functionaries chooses to make his *own private will*, regulated by either *personal favor* or *personal hatred*, his rule of decision, he is utterly un-

fit for office. In all matters submitted to him, connected with the public interests, or the rights of individuals, he has but one plain and simple duty to perform—that is, to do *right*. “*Fiat justitia ruat cælum*,” should be his motto under all circumstances. The present President of the United States recently uttered a sentiment which should be engraved over the door of every public office, when he said to a gentleman who consulted him on the subject of official duty—“do what your conscience tells you is *right*, and let the consequences take care of themselves.”

Nor had the commissioner any more right to assume, upon *private* information, that any *class of men* in the country are dishonest, than he had to exercise his own *private* will in discharging a *public* duty. In his official character as commissioner he had no right to hold *private* intercourse with any man, with a view of affecting his *public* conduct. He might, as has been done in this case, use his official station to stab at the reputation of men as good as he is. The public offices of this country are not inquisitorial chambers, where private character may be defamed and blackened, to suit the whim or caprice of their occupants. The late Commissioner seems to have thought and stated otherwise. Upon *private* information, *unsupported by oath*, he has chosen to assume that *all* the claimants embraced in this award are “a *pack of rascals*, and the Indians and arbitrators their dupes,” and, upon that ground, to determine that he will have nothing to do with the claims! I very much doubt whether another case can be found, which bids such bold and unblushing defiance to justice and the law as this.

But the conduct of the commissioner is still more indefensible than this. Dr. Fitch continues: “I immediately informed the commissioner that the writer of that letter had presented to the arbitrators an *altered note against the Indians*, its date so altered as to bring it within the time to which claims investigated by them were limited, and which was, consequently, *promptly rejected*, and hence the *writer’s hostility to the whole arbitration*; and that if he (the commissioner) *would examine the minutes of evidence I had with me, he would see this fact fully proved*. **THIS HE REFUSED TO DO.**” What is to be thought of conduct such as this? Had he no sense of official shame? No respect for the public station which he filled? Here was the *sworn testimony* offered to him, proving that the writer of this letter was himself guilty of the crime of *forgery*, and was wholly unworthy of credit. But he *refused* to see it, and chose rather to act upon his authority, because it enabled him to do that which he had *privately* resolved on doing, that is, to oppress and ruin the “*rascally Indian traders!*” And, then, to give full compass to his malice, he *placed this private letter on the files of the Indian office, where it still remains*, when he knew, from the statement of an honorable gentleman, that the writer of it was a *felon*—unconvicted, it is true, but no less a *felon!* And why was this done? It is very evident that there could have been no other motive for it than this: that, as he would not receive the minutes of evidence taken be-

fore the arbitrators, this letter could be appealed to thereafter, in proof of the leading idea that seemed to haunt him, that all Indian traders were *rascals*.

When Dr. Fitch saw the motives which prompted such conduct as this, he could not refrain from telling him, on the spot, "that if he *as a public officer* acted upon such authority and refused to examine the evidence, *he must consider him as letting himself down upon an equality with the writer of the letter.*" And this was just the reply that any other honest and honorable man would have given. He could not have said less, and it was not necessary to say more.

A case could not occur which would prove, more than this does, how easily the reputation of *good* men might be assailed by *bad* ones, and without the means of defence. Here is an award made by three gentlemen of the very highest character—two of whom have filled public office, and all of whom enjoy the confidence of those who know them—one of them now being a member of Congress; and the late Commissioner of Indian affairs assigned as a reason why he would have nothing to do with it, that he had *private* information that they were not *honorable* men. And when the *evidence* was offered him to *prove* that this information proceeded from a man who had been detected by *them* in *forgery*, he refused to have any thing to do with it, but deliberately left the falsehood amongst the files of the Department! It fortunately happens, however, in this case, that the arrow falls short of its aim. These arbitrators need not fear that their reputation will suffer by the assaults of the late commissioner. The accompanying letters [see exhibits O, P, Q] show how they are esteemed where they are known. The memorial from *two hundred and seventy-five* citizens of the State [see exhibit M] is to the same effect. The sub-agent, Sinclear, said they were "*good men.*" The fact is, there are no better men in any country; and this will not be denied by any honest man who knows them. They may well bid defiance to the late commissioner and all the *private* slanderers who were his correspondents, and whose letters he has left upon the *public* files.

But I will not pursue this argument farther. I now ask that this award may be confirmed, and that the money be paid. The creditors of these Indians have been subjected to a delay of nearly four years. This money belongs to them, and it is not right that they should be longer deprived of it. The conduct of the late commissioner has been oppressive and unwarrantable; and they now confidently appeal to you for a just recognition of those rights which he has caused to be so long delayed. They are American citizens, and feel that they have rights as such that ought not to be sported with. The heaviest claimants have been engaged for more than twenty-five years in the trade with the Indian tribes. One of the firms (W. G. & G. W. Ewing) has, within that time, employed many millions of dollars in this trade, and has had intercourse with many different nations. Their accounts have, from time to time, been submitted to the inspection of the officers of Government, and commissioners appointed under various administrations.

Their whole business, covering the entire period of their trade, has been finally and satisfactorily settled, except that which was arrested by the late Commissioner of Indian affairs. They have enjoyed the confidence of those who have conducted our Indian relations, and have been employed in the most delicate and confidential negotiations. All this is exhibited upon the files of the office, to which they confidently appeal against the miserable insinuations which the late commissioner has made against them under cover of official authority.

R. W. THOMPSON,

Attorney for the Creditors.

WASHINGTON CITY, January 16th, 1850.

A.

To his Excellency JAMES K. POLK,

President of the United States:

We, the undersigned, headmen and warriors of the Miami tribe of Indians, in behalf of our nation, and not in our individual capacity, would respectfully represent to you, our great father, that a considerable amount of indebtedness exists against many individuals of our tribe, which indebtedness has been contracted since the 25th of February, 1841; and being desirous to discharge such indebtedness previous to our removal to our new homes west of the Mississippi, we respectfully ask you to appoint Alexis Coquillard, Elias Murray, and Julian Benoit, or such other persons as may seem to you proper, commissioners to investigate such claims as may be presented against the individuals of our tribe, conforming to such regulations with regard to evidence as you may prescribe; and whose duty it shall be, when such investigation will be completed, to report to the Commissioner of Indian affairs the amount found to be due to each of the claimants; and for the purpose of paying the totality, or the greater part of the amount so found due, we do hereby relinquish and transfer to the United States 12,000 dollars each year, (twelve thousand dollars,) for three years, out of the 8th, 9th, and 10th instalments of twelve thousand five hundred and sixty-eight dollars each, arising from the third article of the treaty of November the sixth, 1838, with the provision, that if the same should exceed the amount of our indebtedness, as acknowledged by the report of the commissioners to be appointed, such excess shall be paid to us at the first payment of our annuities, after our indebtedness shall have been fully satisfied.

And we hereby authorize and request our great father, as soon as the amount of our indebtedness shall have been so ascertained, to issue to each of our creditors a certificate of the pro rata amount so found due to him, to be paid by the United States, at the time the several instalments, hereinbefore mentioned, would be due to us; with this provision, that such certificate or evidence of indebtedness may not be due until

the removal of our tribe to the country set apart for them west of the Mississippi.

To conclude, we will state, that the object of this petition is to obtain an arrangement for the liquidation of the indebtedness of many individuals of our tribe, from the 25th of February, 1841, to the 28th of November, 1845, as proposed in this petition, and we earnestly request our great father to comply with our wishes in this respect; and as in duty bound, &c.

Done in Council assembled at Peru, Indiana, this 4th of December, A. D. 1845.

To-pe-ah, alias F. Lafontaine,	his x mark.
Tah-gwau-ke-ah,	his x mark.
Me-ze-gwan,	his x mark.
O-zan-de-aw,	his x mark.
Pe-mah-is-to-maw,	his x mark.
Wah-ca-co-nan,	his x mark.
Quah-com-e-cat-wah,	his x mark.
George Hunt, Interpreter.	
Caw-wa-say,	his x mark.

Attest,

E. P. LOVELAND,
GEORGE SLOCUM.

Ne-cone-zah, alias Squirrel,	his x mark.
Shap-pen-do-ce-jah, alias Lafromboy,	his x mark.
& 28 others.	

Attest,

JNO. ROCHE, as to 13 last.

B.

OFFICE OF MIAMI AND EEL RIVER SUB-AGENCY,
Fort Wayne, 19th January, 1846.

SIR: I have the honor to enclose herewith a petition of the Miami nation of Indians, for an arrangement by which their recent debts may be investigated, containing a relinquishment of \$36,000 of their annuities to the United States, which they wish to have applied to the payment of the amount found to be due from them to their creditors.

The petition sets forth the end that the Indians and traders wish to attain, and all parties interested will cheerfully acquiesce in any plan you may adopt in relation to it.

The claimants, on being informed that they would most likely be required to defray the expense of the investigation, if the Department should see fit to order it, have expressed to me a wish that the number of commissioners should be reduced; yet, if it is thought expedient to appoint the whole number, in order the better to protect the interest of the Indians, there will be no objection raised.

I can state from my own knowledge, that the Indians are anxious to

bring about this arrangement previous to their removal, and there can be no danger of any difficulties growing out of the transaction.

None of the parties interested expect that the Government will become in the most remote degree obligated to pay any excess of indebtedness over the amount of annuities relinquished, or that that amount will be applied to the payment of such indebtedness until the removal of the tribe is fully accomplished.

This arrangement if made will, in connection with a provision in the contract recently executed by the Miamies for the payment of a portion of their old claims, secure the influence of all the traders to accomplish the removal of the tribe, which I consider a matter of some considerable importance.

Very respectfully, your obedient,

JOSEPH SINCLEAR,

Sub-agent of Miamies.

Col. WILLIAM MEDILL,

Com'r of In. Aff., Washington, D. C.

C.

Memorandum of endorsement by the Commissioner of Indian affairs, made on the envelope of papers sent to the President, that is, the petition of Miamis and the letter of Sinclear.

“The petition of the Miami Indians, asking the appointment of commissioners to investigate their *recent* debts, &c., is respectfully referred to the Secretary of War, to be laid before the President, to whom it is addressed.

These debts were created in the ordinary course of trade with the Indians, after the ratification of the treaty of 1840, and with a full knowledge of the contemplated removal of the tribe. I presume they are individual liabilities, and I see no reason why this Department should be required to interfere in the matter. The resolution of the Senate, under which it is claimed that the President may act, is enclosed.

W. M.”

“*March 17, 1846.*”

D.

IN THE SENATE OF THE UNITED STATES,

February 24, 1846.

Whereas, by the treaty of 28th November, 1840, between the Miami nation of Indians, residing in the State of Indiana, and the United States, the said Indians agreed to remove to the country set apart for them west of the State of Missouri within five years thereafter; and

Whereas that time has expired, and the Government of the United

States, as well as the people of the State of Indiana, earnestly desire that their removal shall take place early this coming spring; therefore, in the furtherance of this important and desirable object, be it

Resolved, That the President of the United States, if he deems it expedient so to do, for the purpose of effecting a speedy, peaceable, and satisfactory removal of said Indians, may accept their draft or authority to pay their debts, in yearly instalments, out of their annuities falling due from the United States; not, however, to exceed a reasonable proportion thereof each year, and as he (the President) may, in his discretion, believe to be just and proper; and in like, or similar manner, as was done by the President in the case of the Pottawatamie Indians at the time of their removal from the State of Indiana in the year 1838.

Attest:

ASBURY DICKENS, *Secretary*.

E.

Copy of endorsement made by the President on the envelope of papers in Miami case:

“ *March 30, 1846.*

“ I decline to grant the prayer of this petition. The debts claimed were created after the ratification of the treaty, with which the United States ought not to interfere. Like other individual debts, they must be settled by the parties themselves.

J. K. P.”

F.

Proceedings of the Arbitrators.

At a council of the chiefs, headmen, and warriors of the Miami tribe of Indians, resident in the State of Indiana, held at the Forks of the Wabash on the 18th day April, A. D. 1846, to take into consideration the means of ascertaining the amount of their indebtedness, it was agreed that they, the said chiefs, headmen, and warriors, should unite with the creditors in appointing a commission of three persons, wholly disinterested, to sit as arbitrators, &c., to investigate and award to the creditors the amount due them from the Indians. In pursuance thereof, Messrs. E. Murray, W. Z. Stewart, and G. N. Fitch were appointed said arbitrators, and notified to attend at the Forks of the Wabash on the 4th day of May, A. D. 1846; and the said arbitrators appeared, and were then and there duly sworn in manner following, viz:

STATE OF INDIANA, *Huntington county*, ss.

You, Elias Murray, William Z. Stewart, and Graham N. Fitch, do swear that you will faithfully, fairly, and impartially hear, examine, and investigate the several matters and claims submitted to you as arbitrators by and between the Miami Indians and their several creditors;

and a just and true award thereof make to each of the claimants according to the best of your judgment and ability, and the evidence laid before you in each case, so help you God.

I, William G. Johnson, an acting justice of the peace, in and for the county, do hereby certify, that I administered the foregoing oath in the precise terms thereof to said arbitrators above named, this 4th day of May, A. D. 1846.

WILLIAM G. JOHNSON, [SEAL.]
Justice of the peace.

The following is a true copy of the arbitration bond filed by the Indians and traders, viz:

Whereas certain debts have been contracted by individuals of the Miami tribe of Indians with sundry citizens of the State of Indiana, since the 25th day of February, A. D. 1841, which debts, or balances due thereon, still remain open and unascertained: And whereas said indebted Indians, as well as their said creditors, are alike anxious to ascertain the exact amount of the debts or balance due to each of the said creditors before the said tribe shall emigrate to their new homes west of the Mississippi: Now, therefore, it is hereby agreed, by and between the chiefs, headmen, and warriors of the Miami tribe of Indians, resident in the State of Indiana, of the one part, and the undersigned, the creditors and claimants aforesaid, of the other part, that Elias Murray, William Z. Stewart, and Graham N. Fitch, be, and they are hereby, appointed arbitrators to investigate and decide upon the debts and balances aforesaid.

The investigation aforesaid shall embrace all the claims, debts, and balances due the undersigned creditors, which have accrued since the said 25th day of February, A. D. 1841, and before the date of this instrument: Provided, however, that no claim shall be allowed on goods or other articles sold to any individual of said tribe since the 20th day of November, A. D. 1845, except for provisions.

Said investigation shall be governed by such rules and regulations as may be agreed upon by the parties hereto. The said arbitrators are to report the amount due to each claimant, and forward a copy thereof to the proper department at Washington. The arbitrators shall within a convenient time issue to each claimant a certificate under their hand and seals, specifying the gross amount due to each claimant, as well as the amount due from each debtor.

Said arbitrators shall further ascertain and report the amount necessarily expended in the investigation of said claims, for which like certificates shall be issued; and said expenses, it is understood and agreed, are to be paid out of the first instalment hereinafter mentioned.

From said instalments shall also be paid in full the individual claim of Francis Lafontaine, the head chief of said tribe, amounting to five thousand two hundred dollars.

For the payment of the said expenses, the claim of the said principal chief, and a portion pro rata of the debts and balances aforesaid, the said

chiefs, headmen, and warriors, in behalf of their tribe aforesaid, hereby agree to set apart and appropriate the three instalments coming to said tribe by virtue of the 3d article of the treaty of 1838 of \$12,568 each, viz: The instalments of the years 1846, 1847, and 1848, amounting in all to \$37,704, which said instalments we hereby set apart and appropriate towards the payment of the debts and balances so found due to each of said claimants; and that the balance, if any, due said claimants from said debtors after the application of said three instalments, shall remain open and unsettled, subject to future arrangements between said debtors and creditors.

It is hereby agreed that the decision of the arbitrators shall be final as to the amount due each claimant up to the date specified. It is further understood that no claim against individual Indians who are not, by treaty stipulations, or joint resolutions of Congress, permitted to remain in Indiana and draw their annuities at Fort Wayne, shall be considered due and payable, until it shall appear by the proper certificates of the sub-agent that said tribe have removed west of the Mississippi. The undersigned chiefs, headmen, and warriors of their said tribe, earnestly request their great father, the President of the United States, to approve this their agreement, and to cause said sum of \$37,704 to be retained and applied in accordance with this their agreement.

Done in open council, assembled at the Forks of the Wabash, this 5th day of May, A. D. 1846.

Francis Lafontaine,	his x mark.
Cow-wo-as-se,	his x mark.
Me-shing-go-me-zah,	his x mark.
Me-ze-quah,	his x mark.
Pem-y-o-tun-wah	his x mark.
Pish-e-wah,	his x mark.
My-ok-qui-ah,	his x mark.
O-zan-de-ah,	his x mark.
Pe-wa-pe-ah,	his x mark.
Benjamin,	his x mark.
Kat-tah-ki-mon-guah,	his x mark.
Shap-pen-do-ce-yah,	his x mark.
Wah-cah-co-nah,	his x mark.
O-zan-di-ah,	his x mark.
Cah-tah-mon-quah,	his x mark.
Ponk-shin-wah,	his x mark.
Me-no-ten-ah,	his x mark.
Pah-kong-ge-yah,	his x mark.
Wah-pah-pin-cha,	his x mark.

Attest:

E. P. LOVELAND,
Att'y for Indians.
 JNO. ROCHE,
 GEORGE HUNT,
Interpreter.

In testimony whereof the undersigned, the creditors, have also hereunto set their hands and seals this 8th day of May, A. D. 1846.

Taber & Hamilton,	[SEAL.]
Berthelet and Avelin,	[SEAL.]
Samuel Driver,	[SEAL.]
M. & L. Fulk,	[SEAL.]
Ezekiel French,	[SEAL.]
Zenas Henderson,	[SEAL.]
John G. Walpole,	[SEAL.]
adm'r of F. Comparet's estate.	
David Foster,	[SEAL.]
C. S. Allison,	[SEAL.]
S. C. Evans,	[SEAL.]
ex'r of J. Evans' estate.	
J. E. Hill,	[SEAL.]
William Grant,	[SEAL.]
Daniel Grant, his x mark,	[SEAL.]
W. G. & G. W. Ewing,	[SEAL.]
John Harrison,	[SEAL.]
Samuel Rosenshl,	[SEAL.]
J. H. Kintner,	[SEAL.]
John Schoolcraft,	[SEAL.]
Thomas Staley,	[SEAL.]
John W. Miller,	[SEAL.]
Isaac Fulk,	[SEAL.]
Smith Grant,	[SEAL.]
Bearss & Spencer,	[SEAL.]
D. R. Bearss,	[SEAL.]
T. J. Cummings,	[SEAL.]
C. Vigus, per W. S. Palmer,	[SEAL.]
S. W. Trusdale, by N. O. Ross,	[SEAL.]
att'y in fact.	
Samuel McClure,	[SEAL.]
Robert McClure,	[SEAL.]
James Sweetser,	[SEAL.]
ex'r of the estate of D. Conner, dec.	
W. & J. Sweetser,	[SEAL.]
Jesse Vermelya,	[SEAL.]
James T. Miller.	[SEAL.]
Benjamin Hinton,	[SEAL.]
Jacob Wintrode,	[SEAL.]
Joseph Graves,	[SEAL.]
Wm. Bloomhuff,	[SEAL.]
W. D. Henderson,	[SEAL.]
John H. McTagert,	[SEAL.]
Wm. Sweetser,	[SEAL.]
By Jas. Sweetser.	[SEAL.]

A further sum was afterwards appropriated towards the same object, in the following terms, to wit:

Whereas a certain agreement, bearing date May 8, 1846, was entered into between the undersigned chiefs, headmen, and warriors of the Miami tribe of Indians in Indiana, and the creditors of said tribe, by which both parties agreed to have the claims of said creditors against said tribe submitted to the arbitration of Elias Murray, Wm. Z. Stewart, and Graham N. Fitch, the award of which said arbitrators was to be binding upon both parties as to the amount by them found due; and whereas by the same said agreement, we the chiefs, headmen, and warriors aforesaid, further agreed, in behalf of our tribe, to set apart, and did set apart, the sum of \$37,704, in part payment of the debts of said tribe; and whereas, although said arbitration has not closed, yet it has so far progressed that we know the said sum of \$37,704 is not enough to pay our just debts; we therefore hereby further agree to set apart the further sum of seventeen thousand five hundred dollars, in further payment of our debts, said sum to be paid out of our annuities, as follows, viz: one thousand two hundred and thirty-three dollars each year for the years 1846, 1847, and 1848, and \$13,801 in the year 1849, at the time our said annuities usually become due and are payable. It is further agreed that the sum of \$3,000 shall be paid the first year above mentioned to the residuary legatees of J. B. Richardville, our late head chief, for which sum said legatees hold the notes of individuals of said tribe. We furthermore hereby firmly declare and agree that we will at no time hereafter assume in our national capacity any debt, of any name or description whatever, against any one or more individuals of our tribe, which shall have accrued subsequent to the arbitration provided for in our agreement of May 8, 1846; and we invoke the aid of our great father, the President of the United States, in support of this declaration and agreement.

We now, in behalf of our tribe, earnestly request our great father, the President of the United States, to confirm and approve this agreement, and to cause said sum of twenty thousand five hundred dollars, and the sum of \$37,704, set aside in our agreement of May 8, 1846, to be retained and applied in accordance with this agreement.

Done in council, assembled at the Forks of Wabash, this 2d day of June, A. D. 1846.

To-pe-ah,	his x mark.
Ta-quah-keah,	his x mark.
Mi-shen-go-me-zea,	his x mark.
Pish-e-wa,	his x mark.
Me-ze-quah,	his x mark.
Oh-zan-de-ah,	his x mark.
Pe-my-o-to-mah,	his x mark.
Ben-ja-min.	his x mark.
Oh-zan-de-ah, jr.	his x mark.
Wa-ko-co-nah,	his x mark.

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Sherah-pin-e-mo,	his x mark.
Ah-tah-wa-tah,	his x mark.
Lah-ma-ke-ka-mah,	his x mark.
Wah-pe-sip-pan,	his x mark.
Co-was-see,	his x mark.

Signed this date above named, in presence of—

GEORGE HUNT, *Interpreter.*

GRAHAM N. FITCH,

JNO. ROCHE.

“In accordance with one of the provisions of the foregoing article, the parties thereto adopted the following rules in relation to the filing of claims and the admission of evidence to govern the arbitrators in conducting the investigation, so far as they can be properly applied:

1st. “All claims filed for the investigation are to be accompanied by the oath of the party, or one of the parties, having the legal interest therein, containing, in substance and form, as near as may be, the facts set forth in the accompanying affidavit, marked “A.”

2d. “All claims filed for investigation are to be set out in detail, as to the quantity or number, quality, place of sale, date of sale, and to whom sold, setting out in full the name or names of the Indian purchaser.

3d. “The books of original entries are in all cases to be produced for the inspection of the arbitrators, or their absence, loss, or destruction accounted for according to the rules of legal evidence.

4th. “The original consideration of all notes, obligations, and judgments are to be inquired into, and the note, obligation, or judgment shall, in no case, be even *prima facie* evidence of Indian indebtedness.

5th. “The arbitrators shall, in their discretion, have the power of examining the claimant as a witness, under oath, as to the whole or any part of his claim, giving such weight thereto as they may think proper.

6th. “Tabular statements, exhibiting the amount of capital embarked in the trade, with the original bill of purchase, place of purchase, from whom purchased, amount disposed in the White trade, the cash account in full, amount withdrawn from the trade stock on hand, and the amount collected at payments and otherwise, are to be produced, or their loss or absence accounted for on legal principles, as would the loss or absence of any other instrument of evidence; but such production is contemplated in those cases in which, from the character of the trade, the existence of such facts is necessarily implied.

7th. “On all matters of price, quantity, quality, or any other matter in dispute, the Indians or claimants may introduce the evidence of witnesses legally competent to testify; and may introduce Indians also as competent witnesses, leaving, in all cases, their credibility for the consideration of the arbitrators.

8th. “In every instance the claim otherwise to be proved by the best evidence according to the course of legal proceedings in other cases.

“The form of affidavit prescribed by the first rule runs thus—

" STATE OF INDIANA, *Huntington county, ss.*

" Before me, the undersigned, an acting justice of the peace in and for said county, personally came A B, one of the claimants above named, who, being by me duly sworn on his oath, deposeth and saith that the said firm of which he is a partner, is composed of the said A B, C D, and E F, trading and doing business under the name, style, and firm of _____; that there are no other person or persons directly or indirectly interested in the business of their said firm, and no dormant or silent partner or partners; that the said members of the said firm are severally citizens of the United States; that to the best of affiant's knowledge and belief, the articles charged in the said claims are the identical articles [sold] to the Indians respectively to whom they are charged in the said claim; that the said several articles were sold as aforesaid in good faith, and that the articles were not any, or either of them, or any part thereof, withheld from the Indians after the sale, or purchased, retaken, or obtained, by barter from the Indian after delivery, either directly or indirectly, by any of the said partners, or their clerks, agents, or any other person or persons, for the use or benefit of the said firm or any member thereof, or by the command, consent, or connivance of the said firm or any of them; but that the goods and articles in the said claim, and every part and parcel thereof, were fairly and honestly delivered to the Indian to whom they are charged at the time, price, the quantity and quality charged; that all the credits to which the Indians are entitled respectively, whether for payments in money, horses, ponies, furs, peltries, or other valuables, are correctly entered in the said claim according to their true quantity, quality, value, price, and date of payment; that this claim contains no charge, directly or indirectly, for wines or liquors of any kind; that if this claim be allowed it will be for the sole use and benefit of the said firm, and that there are no other person or persons interested directly or indirectly in the result of its investigation, or amount thereof awarded the claimant; that the price charged in the said claim for each article is the price actually agreed upon, and that it is a fair price for the same according to the market value of such articles in the place of the sale at the time; and that in no instance has the articles charged, or any of them or any part thereof, been paid for at the time of the sale in whole or in part, nor have they or any part thereof been paid for since in any manner whatever, except exhibited in the submitted claim.

And further the deponent saith not.

(Signed.)

Subscribed and sworn to before me this _____ day of May, 1846.

_____, [SEAL.]
Justice of the Peace.

The foregoing affidavit and rules will sufficiently indicate the course pursued in the investigation. It will be proper, perhaps, to mention a few subsidiary rules, if they may be so called, which modified or enlarged the application of those already mentioned.

And they are thus briefly set forth here to avoid the repetition of them as applied to each claim.

In making out our award we gave such weight to the evidence of competent witnesses as, under the circumstances of each case, the standing, character, means of knowledge, and candor in testifying, of the respective witnesses, it was legally and justly entitled to receive.

Generally, though not always, we considered it material whether the evidence adduced was supported or contradicted by the statement of the indebted Indians. Of course the weight given to the Indian statement depended likewise on the character and candor of the Indian. Most of them we were constrained to believe, some to discredit.

Communication between the Indian under examination and the claimants was permitted only through the interpreter. And in no instance whatever was the admission of any Indian received through any other medium than his own lips, unless it was first satisfactorily and properly proved that the Indian whose admission or statement they offered was dead; and even then we received it with many grains of allowance.

Nor was the oral admission of the Indians deemed conclusive unless supported by collateral facts, or such a degree of intelligence and integrity on the part of the Indian as left little or no room for doubt. This distrust of Indian testimony we felt to be well founded, because of the facility with which it is notorious too many of the Indians can, under certain influences, be made to admit almost any thing.

Yet whenever the Indian pointedly denied any account, or any item thereof, such denial was the signal for a more rigid scrutiny of the quality and character of the other evidence in support of the charge thus denied.

Having thus settled the weight of the whole evidence adduced, both White and Indian, we next proceeded to correct such errors in the addition, charges, or credits, as we could discover. Charges obviously extravagant were reduced to the price which, from the whole tenor of the investigation, seemed to be the standard at the time and place of sale.

Whenever from the character of the trade, bills of original purchase were necessarily presumed to exist, their production was required, together with an exhibition of the whole amount of capital invested. The amount of such capital diverted from the Indian trade into other avenues of business or expenditure, verified by the oath of the claimant. These exhibits were maturely considered, and had justly very great weight in making out our award.

Each claim thus reduced to accurate dimensions, so far as we could ascertain from the lights afforded us, the next and last consideration was, the per cent. profit to be allowed. It was soon obvious that no one standard could be justly applied to all—we therefore considered each case on its own merits. The quality of the goods sold, the risk and expense of the business, the delay in collecting, already suffered, and, in fine, the general character of the particular traffic, whatever it might be, were all regarded as proper elements to be estimated in fixing the profit to which each claimant was entitled. Uniformity was, however, thus far observed, that when the claims were of the same general character, for instance, those commonly called mercantile, the same principle in relation to profit was applied.

In this connection it is due to the traders to say, that with one or two exceptions, they adopted a course alike candid and honorable.

Acting on the principles thus briefly hinted, we were happy to find our labors progress and close with remarkable unanimity—not merely as to the aggregate indebtedness, but also as to the amount to which each claimant was entitled.

In many cases, we have awarded to the claimant a mere nominal sum. This occurred in that class of cases where there was little or no evidence beyond the affidavit of the party.

In view of the contract entered into between the Indians and traders, we deemed it due to justice that such claims should, in the spirit and meaning of the contract, be forever put to rest, and so awarded a nominal sum. Thus explained, we beg leave to submit to the parties immediately interested, and at their request, to the proper department at Washington for approval and confirmation, the following award, to wit :

No.	Claimants.	Amount claimed.	Amount allowed.
4	George Ruttig - - -	\$47 08	
	Awarded - - -	-	\$47 08
8	William Grant - - -	128 26	
	Awarded - - -	-	58 88
25	Bearss & Spencer, - - -	168 61	
	Awarded - - -	-	129 25
9	Daniel Grant - - -	488 88	
	Awarded - - -	-	170 38
34	Benjamin Hinton - - -	33 50	
	Awarded - - -	-	33 50
32	S. W. Truesdale - - -	25 37	
	Awarded - - -	-	25 00
28	D. R. Bearss - - -	313 42	
	Awarded - - -	-	109 98
20	John Schoolcraft - - -	127 00	
	Awarded - - -	-	60 00
26	Smith Grant - - -	1,017 22	
	Awarded - - -	-	337 62
37	Jacob Wintrode - - -	265 00	
	Awarded - - -	-	160 00
7	J. E. Hill - - -	52 13	
	Awarded - - -	-	25
27	Robert McClure - - -	802 23	
	Awarded - - -	-	150 75
22	Moses & Loab Fulk, cr. 1,000 -	4,922 01	
	Awarded - - -	-	3,886 31
33	Peru Bridge Company - - -	62 00	
	Awarded - - -	-	12½
	Amount carried forward -	\$8,452 71	\$5,169 12½

Award—Continued.

No.	Claimants.	Amount claimed.	Amount allowed.
	Amount brought forward -	\$8,452 71	\$5,169 12½
15	James T. Miller - - -	1,060 92	
	Awarded - - -	-	\$1,060 92
16	John Harrison - - -	35 00	
	Awarded - - -	-	30 00
21	John Harrison, admtr. of Wm. T. Barnitt's estate - - -	655 25	
44	Awarded - - -	-	30 00
	John H. McTaggart - - -	46 00	
	Awarded - - -	-	46 00
35	W. & J. Sweetzer - - -	53 81	
	Awarded - - -	-	25 81
41	William Sweetzer - - -	34 34	
	Awarded - - -	-	30 00
29	Thomas Staly - - -	266 35	
	Awarded - - -	-	225 00
17	Samuel Rosenthal - - -	123 00	
	Awarded - - -	-	82 25
10	James Avaline - - -	104 00	
	Awarded - - -	-	25
18	Shap-pen-do-cea - - -	756 75	
	Awarded - - -	-	25
38	James M. Stutsman, (agreement not signed) - - -	138 75	
	Awarded - - -	-	
43	Joseph Morris - - -	12 75	
	Awarded - - -	-	12 75
45	J. B. Richardville, est. - - -	4,297 00	
	Withdrawn - - -	-	
39	Jesse Virmilya - - -	541 62	
	Awarded - - -	-	425 00
5	Berthelete & Aveline - - -	25,079 34	
	Awarded - - -	-	19,200 09
14	C. J. Allison - - -	1,050 21	
	Awarded - - -	-	507 50
12	David Foster - - -	3,103 38	
	Awarded - - -	-	1,637 93
36	James Sweetzer, extr. of D. Conner's estate - - -	3,666 64	
	Awarded - - -	-	350 00
	Amount carried forward -	\$49,477 82	\$28,832 87

Award—Continued.

No.	Claimants.	Amount claimed.	Amount allowed.
	Amount brought forward -	\$49,477 82	\$28,832 87
19	John W. Miller - - -	790 08	
	Awarded - - -	-	753 93
24	Samuel McClure - - -	940 07	
	Awarded - - -	-	470 07
23	Isaac Fulk - - -	911 04	
	Awarded - - -	-	325 00
30	T. J. Cummings - - -	699 00	
	Awarded - - -	-	25
31	Cyrus Vigus - - -	637 38	
	Awarded - - -	-	25
40	James H. Kintner - - -	1,014 49	
	Awarded - - -	-	834 60
13	Zenos Henderson - - -	2,577 84	
	Awarded - - -	-	150 00
46	Bloomhuff & Henderson - - -	388 78	
	Awarded - - -	-	50 00
1	Taber & Hamilton - - -		
	Awarded by the Indians - - -	-	6,300 00
11	W. G. & G. W. Ewing - - -		
	Awarded by the Indians - - -	-	8,241 00
3	Samuel Driver - - -	19,521 62	
	Awarded - - -	-	15,875 62
6	E. French - - -	2,358 10	
	Awarded - - -	-	1,635 37
42	Joseph Graves - - -	121 92	
	Awarded - - -	-	103 25
2	J. G. Walpole, admr. F. Com- paret, dec'd - - -	1,254 38	
	Awarded - - -	-	200 00
		\$80,792 52	\$63,772 21

The following allowances for the expenses of the investigation are made in pursuance of the said agreement:

F. Lafontaine, for rations for assembled Indians, and for board for commissioners and magistrate	- -	\$590 00
Samuel Driver, for provisions for Indians at council	- -	17 00
Berthelete & Aveline, for provisions as above	- -	12 00
Wm. G. Johnson, for attendance as magistrate, 22 days, \$1 50	- - - -	33 00
S. A. Hall, printing certificates	- - - -	5 00
E. B. Strong, services as clerk, 10 days	- - - -	25 00
W. Z. Stewart, Elias Murray, and Graham N. Fitch, for services as commissioners in investigating claims, &c., \$500 each	- - - - -	1,500 00
E. P. Loveland, attorney for the Indians	- -	400 00

We do hereby adjudge and award, to the said several claimants respectively, the said sums above set forth, in full of all debts, dues, and demands against the Indians, individually and collectively, under the terms of the agreement of submission aforesaid.

Given under our hands and seals, this 11th day of June, A. D. 1846.

ELIAS MURRAY, [SEAL.]
W. Z. STEWART, [SEAL.]
GRAHAM N. FITCH. [SEAL.]

Witness—E. B. STRONG, Sec.—(Copy.)

Copy.

Whereas the Miami nation of Indians is justly indebted to Taber & Hamilton in the sum of six thousand and three hundred dollars, and W. G. & G. W. Ewing in the sum of eight thousand two hundred and forty-one dollars, which said amounts were acknowledged due to said firms, and being desirous of paying the same, we hereby request and direct you, Elias Murray, W. Z. Stewart, and G. N. Fitch, arbitrators heretofore appointed to investigate claims against our said nation, to award said sums to said firms, and to issue certificates therefor, as provided for in our agreement of May 8th, A. D. 1846; said sums to be payable as provided for in said agreement.

Done in council assembled at the forks of the Wabash, this 10th day of June, A. D. 1846, by us, chiefs and headmen of said Miami nation.

FRANCIS LAFONTAINE, his x mark.

Principal chief.

PISH-A-WAH, his x mark.
MI-ZI-QUAH, his x mark.
PENE-Y-O-TE-MAH, his x mark.
WA-PE-SIP-PUN AH, his x mark.

AS-SON-ZE-GA,
COW-WAG-SEE,

his x mark.
his x mark.

Attest—GEORGE HUNT,
PETER ARNDT.

To MESSRS. MURRAY, STEWART, and FITCH,
Arbitrators to investigate Miami claims.

STATE OF INDIANA, *Cass county, ss.*

I, William Z. Stewart, notary public in and for said county, do hereby certify, that the foregoing is a true copy of the original papers, award, and final instructions of the chiefs and headmen, carefully compared and examined by me.

Given under my hand and notarial seal, at my office, in the city of Logansport, this seventh day of August, 1847.

WM. Z. STEWART, *Notary Public.*

G

Deposition of the Hon. G. N. Fitch.

Myself, Elias Murray, and Wm. Z. Stuart, were chosen as arbitrators to whom were submitted the consideration of the matters set forth in an arbitration bond, signed by the chiefs, headmen, and warriors of the Miami nation then in Indiana, and their creditors, dated May 8, 1846.

We met on the 4th May at the Forks of the Wabash in said State.

Myself and Mr. Murray were selected, to the best of my knowledge, by and on the part of the Indians, and Mr. Stuart by and on the part of the creditors. We remained almost daily in session (Sundays excepted) in the examination of said matters, until the 11th day of June, when we made our final award, a true copy of which has been shown us marked "A," and now in the possession of W. G. and G. W. Ewing and their attorney. We, as arbitrators, took the utmost care to preserve the rights of all parties, both Indians and creditors. After said award was concluded and signed by myself and the other arbitrators, I was charged with the duty of bringing it to Washington, for the action and ratification of the Commissioner of Indian affairs. I brought with me to this city the award, and the minutes of evidence taken before us.

I left home a few days after the date of the award, and reached this city as early as possible. On the day after my arrival here, I called on the Commissioner of Indian affairs (Col. Medill) at his office, and desired him to file in his office, and ratify and confirm, the award, offering at the same time to leave in his office and place on file there, together with the award, the aforesaid minutes of evidence.

I was selected by the Indians to bring the award to Washington and have it confirmed on their account, as they were anxious to have all their debts paid before they were removed to the west. They selected five of their chiefs and an interpreter to accompany me, and they did

accompany me, to wit, La-fon-taine, the principal chief, Mee-zee-quah, Pish-a-wah, Peen-y-o-te-mah, Wa-pa-sip-pen-ah, and the interpreter, Os-sos-song-gah, or George Hunt. These chiefs were charged by the nation to have the award confirmed. They were present at the office of the Commissioner of Indian affairs with me, and urged the confirmation of the award. La-fon-taine, especially, urged the commissioner to confirm it, stating that it was necessary to the interest of the Indians to have it confirmed, and their business settled. But the commissioner (Col. Medill) positively and repeatedly refused to examine the award, or have anything to do with it, or with the papers which I had. He stated both to me and the Indians, that the papers might be left in the office, but that he would have nothing to do with them, and would not examine them, although he admitted that he had encouraged the parties (Indians and creditors) to arbitrate. My recollection is, that a memorial was prepared here, and signed by the said chiefs, and laid before the commissioner, setting out the reasons for having the award confirmed, and I think the same was filed with the commissioner. Myself and chiefs urged the commissioner to submit the award and papers to the President of the United States for his action, but the commissioner positively refused to do so. He furthermore told me, that he had made up his mind in regard to the claims covered by the award, and that he was determined their payment should not be encouraged by any action of the Department; that he had information that all the traders were a pack of rascals, and the Indians and arbitrators their dupes, or language to that effect. I asked him for his information or authority for such declaration, and he exhibited, or read to me, a private letter from one of the claimants who had written him something to that effect. I immediately informed the commissioner that the writer of that letter had presented to the arbitrators an altered note against the Indians, its date so altered as to bring it within the time to which claims investigated by them were limited, and which was consequently promptly rejected; and hence the writer's hostility to the whole arbitration; and that if he (the commissioner) would examine the minutes of evidence I had with me, he would see this fact fully proved. This he refused to do. I then told him that if he, as a public officer, acted upon such authority and refused to examine the evidence, I must consider him as letting himself down upon an equality with the writer of the letter. This of course ended any friendly intercourse between the commissioner and myself.

I called on the President without presenting him the papers, and requested him to order the Commissioner of Indian affairs to investigate them and confirm the award. The President stated that he could not act upon the question originally, but that it must come to him through the Department of Indian affairs, and he presumed the commissioner (Col. Medill) was not disposed to do the parties injustice. The then commissioner (Col. Medill) states in his report to the second session of the thirtieth Congress, page 42, that "the claims" (part of these embraced in the award,) "were twice presented, fully considered, and rejected both by the Department and the President." If this statement

is applied to the award and papers as presented by me, it is *untrue*, as the commissioner refused to "consider" or entertain them at all, and the President did not see them. I remained here nearly two months, and the aforesaid chiefs about one month, during all which time we were endeavoring to have the award confirmed; but having failed to do so, I carried the same and all the papers connected therewith home with me.

GRAHAM N. FITCH.

Subscribed and sworn to before me, this 28th day of December, 1849.

B. K. MORSELL,

*Justice of the peace in and for Washington county,
District of Columbia.*

H.

WAR DEPARTMENT,

Office Indian Affairs, April 2, 1846.

SIR: Your letter of the 19th January last, enclosing the petition of the Miamis, for a commission by which their recent debts may be investigated, was duly received, and referred by this office to the Secretary of War, by him to be laid before the President.

On the 30th ult. the petition was sent back with the following endorsement thereon.

"I decline to grant the prayer of this petition. The debts claimed were created after the ratification of the treaty, with which the United States ought not to interfere. Like other individual debts, they must be settled by the parties themselves. J. K. P."

This decision of the Executive of course puts an end to the business, and is communicated to you in order that you may give an answer to the petitioners.

Very, &c.,

W. MEDILL, *Com'r.*

JOSEPH SINCLAIR, esq., *Fort Wayne, Ind.*

I.

OFFICE OF MIAMI AND EEL RIVER SUB-AGENCY.

Fort Wayne, 20th April, 1846.

SIR: * * * * * * *

"I have just returned from a council with the Indians under my charge; they assembled at the request of their chiefs for the purpose of making some arrangement for the settlement of their late debts.

It was agreed in council that an investigation should be commenced in two weeks from this day, and the Indians have selected Capt. Elias

Murray, of Huntington, Dr. G. N. Fitch, and ——— Stewart, esq., of Logansport, as commissioners to conduct the investigation; these are good men, and will, I presume, afford proper protection to the interests of the Indians.”

*

*

*

*

Very respectfully your obedient serv't,

JOS. SINCLEAR, *Sub agent.*

COL. WM. MEDILL,

Commissioner of Indian Affairs.

This letter is endorsed as follows: “Received 28 April, 1846—*no answer req'd.—J. C. M.*”

K.

TO. HON. WM. MEDILL, *Com. Indian Affairs.*

SIR: The chiefs, headmen, and warriors of the Miami nation of Indians being desirous of settling all their national business, and of having a full understanding of all matters pertaining thereto before the proposed division of their nation by the emigration of a part thereof to their new homes west of the Mississippi, respectfully address the following interrogatories, through you, to their great father the President of the United States, and request him to be so kind to his red children as to answer the same at his earliest convenience, that they may be governed hereafter by such answers in any steps they may take in their individual or national capacity.

1st. Having recently appointed disinterested men, Graham N. Fitch, Wm. Z. Stewart, and Elias Murray, arbitrators, to investigate claims against our nation which have accrued since February, 1841, will our great father confirm the award of said arbitrators in accordance with our prayer and agreement, made in council at the time of their appointment, which prayer and agreement are in the hands of our friend Graham N. Fitch, who will submit the same with the award to our great father.

2nd. If our great father will not confirm the award of our chosen arbitrators in accordance with our request, we most respectfully ask if he will point out some plan by which we may pay the amounts by them awarded, which amounts we justly and honestly owe certain of our white neighbors, mostly for clothing and provisions furnished our poorer people when in want of the same at our request; and which, from having made that request, we are in our national capacity honorably bound to see paid, or amicably arranged before a division of our people makes concert of action among us impossible; before we, in fact cease to be one nation.

3rd. After paying our just debts as awarded by our arbitrators in instalments, and in the manner requested in our agreements at the time of the investigation, we shall still have more than \$50 annually for each individual in our nation. Will our great father's instructions to his agents require the payment of this to heads of families or to individuals?

4th. Certain individuals of our nation, who are not permitted by treaty or by law of Congress to remain in Indiana and draw their annuities there, hold individual reservations of land by treaty, which they have improved, and upon which they are now living, and have paid taxes. A law of the State of Indiana forbids them making private sale of these lands, declaring all contracts with our people *null* and *void*.

If such of our people emigrate, their farms will be ruined or sold for taxes, and their personal property, stock, &c., sacrificed. Will not our great father permit such of our people to remain upon their lands, and draw their annuities in Indiana, in the same manner as is specified in a similar permission, by treaty and by law of Congress, to a few other of our people? Such permission to be extended to those land owners (not now having it) until the legal inability to sell their lands is removed, or the U. S. buys them, upon the condition that they aid the contractors and officers of Government in immigrating to their new homes the rest of the nation not having permission to remain.

5th. If our great father has not the power (as we are informed) to grant our last request, will he recommend to the law-makers (Congress,) that they pass a law granting it, conditioned as above, or at least leave one path open, (by not opposing us,) if we endeavor through our friends to procure the passage of such law?

6th. We last summer sent a delegation of our people west, to look at the land assigned for their new homes. It does not please them; they have been born and raised in the timber; their new land is nearly all prairies. Will our great father now, before our removal, or if he cannot now, will he at some future time, after our removal, exchange such land with us for that which will better suit our people?

7th. Those of our people who remain in Indiana wish their proportion of the salt, iron, tobacco, and blacksmith work, and miller, due the nation by treaty stipulations, in the same manner as is due them other annuities. Will our great father pay it to them, or an equivalent in money?

8th. Will our great father pay their proportion of the school money to those who remain in Indiana?

They are desirous of receiving it to educate their children.

9th. Will our great father cause to be expended in the new country all the improvement moneys due the nation, or will those who remain behind receive a part of it?

10th. By treaty, the entire Meshingomeesha *band* are permitted to remain on their ten sections—receive and draw their annuities. Will our great father see that all the band are enrolled among those permitted to remain, and not merely the families of the three brothers?

11th. Will our great father direct or permit the use of *force* in the removal of any of our people?

12th. Will our great father designate some person in whom he has confidence, to pay the annuities of those who are permitted to remain in Indiana, to write their papers to their great father, and to do with him and with the State of Indiana, such other business for them as may be

necessary, if they, said Indians, will defray the expense of said agent to such reasonable amount as their great father may deem just?

13th. The arbitrators to investigate our claims were selected by ourselves, and we told them they should be paid.

Our people were assembled at the place of the investigation near four weeks, for the purpose of taking their testimony in the claims against them.

We directed some of our headmen to furnish them provisions while they assembled, and promised to pay all these expenses at the time of the payment of our next annuities. If our great father will not confirm the award, we respectfully ask if he will not at least pay out of our next annuity, at the time of its usual payment, the expenses of the investigation as shown in the award and in our drafts, that innocent people, who were our friends, and who, like ourselves, knew nothing of our great father's intention not to confirm the award, not having been informed of the same, may not lose for us their time and provisions.

14th. Will our great father tell us at what time our annuities by the different treaties expire?

15th. Will our great father tell us whether the moneys set aside many years since by treaty for the support of the blind and other invalids of our nation, has been paid to our people for the purposes designated or embraced in any of our annuities, or is yet due us?

16th. If such money (last referred to,) is yet due us, is it subject to our disposal for the purposes for which it was, by treaty, set aside?

17th. Will those remaining in Indiana be entitled to an interpreter as heretofore?

Done in Washington city, this June 29, 1846.

Francis Lafontaine, principal chief,	his x mark.
Pish-a-wah,	his x mark.
Me-zee-quah,	his x mark.
Pim-ly-o-te-mah,	his x mark.
Wa-pa-sip-pon,	his x mark.

Attest:

GRAHAM N. FITCH,
GEORGE HUNT,
Interpreter.

L.

To his Excellency JAMES K. POLK,
President of the United States.

Your memorialists, a part of your red children, the Miamis of Indiana, respectfully represent, that we sent some of our chiefs and headmen with our friend Graham N. Fitch, to Washington city, last month, to transact some business of great importance to us as a nation; particularly now, when, by the intended emigration of a part of our

people to their new homes west, we are about to be divided, and hereafter have divided interests. Among other matters, we wished our delegation thus sent to obtain from you, our great father, a confirmation of the award rendered by Wm. Z. Stuart, Graham N. Fitch, and Elias Murray, arbitrators recently appointed by ourselves to investigate claims against our people since the last treaty, and to arrange all matters pertaining to the contemplated division of our people, that we might part with a full and friendly understanding of all such matters, and have no bad feelings hereafter towards our great father or each other. Our delegates waited upon your Commissioner of Indian affairs, and made known to him their business. They afterwards sent a paper to him, (dated 29th June, 1846,) in which it was more fully made known. He sent us through our friend, Graham N. Fitch, an answer dated July 1st, 1846, much of which is too vague and indefinite for us to base any action upon it, and a part of which refuses our just and reasonable request—that the award of our arbitrators shall be confirmed. One reason your commissioner alleges for the refusal is, that he had informed our agent (Mr. Sinclear,) of his opposition to the investigation, and directed that agent to make known this opposition to us; your commissioner therefore presumes that ourselves and our traders being fully informed of this opposition, had the investigation in defiance thereof, and with a design of *urging* him into its confirmation. This is not the fact, however. We never understood from Mr. Sinclair that your commissioner had any other opposition to the investigation than an unwillingness or refusal to appoint the arbitrators. We were encouraged by the presence and language of the agent to believe the award of our arbitrators would be confirmed, and our business satisfactorily settled. We appointed the arbitrators; we assembled at the “Forks of the Wabash” while the investigation was being conducted there, for the purpose of giving our testimony in the claims presented against us; we directed some of our principal men to issue rations to us while there assembled, (near 4 weeks,) and we promised in our national capacity to pay all these expenses, as well as the amount of the award, out of our annuities.

We are “Red men,” but we are not children. If during our long intercourse with the whites, our neighbors, and others, we have imbibed some of their vices, we have likewise learned to understand some of their principles of justice and equity; some of us professing the worship of that Heavenly Father, who is the parent alike of the white and red man, wish to do, as his great and good Book directs us, “unto others as we would they should do unto us;” we owe honestly and justly, and we wish to pay what we honestly and justly owe our white neighbors; we have been told that the white man’s law did not compel us to pay any debt, and we have been told so by those in office, that if we in fact were disposed to be rascals the white man’s law would protect us in our rascality. But neither our Miami laws, the laws of justice, or the laws of our spiritual Father, will protect or justify us in such course. Those who urge upon us such course but little understand

our character, and erroneously suppose we are as much disposed as they would be to avail ourselves of *law in opposition* to justice and honesty. Our great father, the President, surely will not countenance such advice, or aid us even were we so disposed in following it. We ask him, then, to conform to our wishes with respect to the award of our arbitrators, and confirm it, as we have requested in agreement in council of May 8th, 1846, and pay it as we requested in that agreement, and our subsequent one of June 2, 1846, both of which agreements are in the hands of our friend Graham N. Fitch, and will be submitted herewith. Your commissioner objects to confirming the award because he says it is not good policy to pay individual debts out of the national annuities, "because the economical are made to pay for the support, and sometimes the extravagance, of the idle and depraved, the latter class generally being the largest debtors." We know nothing of the transactions of other Indian nations; we admit that advantage has been taken of *treaty* stipulations, by which the "idle and depraved" have been largely credited for goods, and the debts assumed and paid as national; but we *know* that such has not been the case with the debts recently investigated. There was *no law or treaty* for traders and for our white neighbors to avail themselves of, were they so disposed to cheat us or the U. S. Government. These debts were based upon individual, and national honesty and integrity. The large amount of claims presented were for clothing and provisions furnished us when in need, and almost the entire amount awarded the claimants is for such articles. The "idle and the depraved" were credited only with such things as they were in actual need of, and usually at the request of our headmen.

What difference, we ask, can it make to your commissioner, or to any one else, in what particular manner or to what individuals our annuities are paid, if they are so paid in conformity with our wishes, and at our request? The money due us annually is *ours* by law, (*treaty*), and by justice, (for our lands;) the commissioner will not restrain us, after we receive it from disposing of it for a blanket, or a barrel of flour. Then, why should he refuse at our request to pay for such articles out of our annuities if we have obtained them on credit, and before receiving our money? The law permits him with your consent to "accept (our) their draft or authority to pay (our) their debts in yearly instalments out of (our) their annuities falling due from the United States; not, however, to exceed a reasonable proportion thereof each year." We now most respectfully ask you, our great father, the President, to confirm or cause to be confirmed, the award of our arbitrators, and to pay the amounts by them awarded in instalments as we have requested in our agreements above referred to. Neither those who remain or those who emigrate can then be held in justice responsible, (as they otherwise may be) for debts of friends or members of the same band from whom they will be separated, and who obtained goods and provisions in many instances at their request. And no one of us can be called

upon to pay any amounts which our arbitrators have declared unjust, and have stricken from the claims.

We make this request of you, our great father, because you told our delegation you would see that justice was done us, and because your commissioner has refused to grant our requests, or to peruse the papers connected with the investigation; and because, therefore, his refusal has been given in ignorance, as we must believe, of the most important circumstances connected with the investigation, and rendering its confirmation necessary before our division by the emigration of a part of our people. We do not wish to have our requests finally decided upon by one who declines examining the grounds upon which we base them, but who is governed by a particular rule, "right or wrong," and which we think is "wrong" in our case, though perhaps a good and honestly formed one, and applicable, for ought we know, to many cases brought before him. Lest our great father, the President, might think our delegation was acting without our instructions, we now, in council assembled, ask him to grant our request herein contained, and to take under his consideration the papers herein referred to as pertaining to the late investigation of our claims, together with the paper sent by our delegation in Washington to the commissioner of Indian affairs, dated June 29, 1846.

And we, your red children, will be under lasting gratitude, and will ever pray, &c.

Attest: GRAHAM N. FITCH,

GEORGE HUNT, *Interpreter.*

	To-pe-ah,	his x mark.
	Pish-a-wah,	his x mark.
	Me-ze-quah,	his x mark.
	Pim-y-o-te-mah,	his x mark.
	Wa-pa-sip-pea,	his x mark.
	Wah-cah-es-nong,	his x mark.
	Silver Heels,	his x mark.
Me-ze-quah's son,	Me-shing-go-me-zah,	his x mark.
	Mi-ah-qui-ah,	his x mark.
	Kil-son-zah,	his x mark.
Mi-ah-qui-ah's son,	Wak-shin-gah,	his x mark.
	Ke-no-zaw-zah,	his x mark.
	Ke-wa-pe-ah,	his x mark.
	Wak-shin-gah,	his x mark.
	Wa-pe-pin-shaw,	his x mark.
	Shaw-a-pin-ah-mo,	his x mark.
	Wa-pa-munquah,	his x mark.
	Sa-kah-quah,	his x mark.
	Ne-wah-lin-quaw-quah,	his x mark.
	Waw-zah-pe-ah,	his x mark.
	Wa-ar-ah-se-tah,	his x mark.
	Mah-cau-zah,	his x mark.
	So-e-lin-go-se-ah,	his x mark.
	Punch-shin-gah,	his x mark.

Witness the above.—JOHN ROACH.

	Lak-la-pin-zin-sah,	his x mark.
	Co-ah-se,	his x mark.
	Wap-pim-mong-quah,	his x mark.
	Wan-non-zah,	his x mark.
	Kil-le-kom-e-ke-zah,	his x mark.
	Pe-met-shin-wah,	his x mark.
	Me-no-to-wah,	his x mark.
	Nan-zop-he-zah,	his x mark.
	My-ok-que-ah,	his x mark.
(Ke-swah's son,)	William,	his x mark.
(Louis Godfrey,)	Mam-a-chi tah,	his x mark.
(Louis Godfrey's son,)	Babtiste,	his x mark.
	Wah-pim-mong-quah,	his x mark.
	Neon-go-zah,	his x mark.
	White Wolf,	his x mark.
	Benjamin,	his x mark.
	Wah-pe-sip-pen-ah,	his x mark.
	Win-go-sah,	his x mark.
	Wan-now-zah,	his x mark.
	Now-dok-a-shing-gwah,	his x mark.
	In-dosh-a-mo-tah,	his x mark.
	Wak-ka-shing-gwah,	his x mark.
	Cat-tah-shing-gwah,	his x mark.
	Wan-zop-pe-zah,	his x mark.
	She-wen-zah,	his x mark.
	Sour Moon,	his x mark.
	Sen-ne-pe-zhin-zah,	his x mark.
	Sour-ke-kone-wah,	his x mark.
(Curly Head,)	O-san-di-ah,	his x mark.
	Ni-ok-a-si-lah,	his x mark.
	Shaw-wan-ness-seh,	his x mark.
(Pish-e-wah's son,)	Quah-com-e-cot-twah,	his x mark.
(Pish-e-wah's son,)	Now-ak-wah-po-ah,	his x mark.
	Wah-wa ah-ci-tah,	his x mark.
(Chief,)	Me-shing-go-me-zah,	his x mark.
	Kah-kong-gi-ah,	his x mark.
	Chap-pen-do-ci-a,	his x mark.
	Tow-wa-ke-ah,	his x mark.
	Sas-sa-quas-se-ah,	his x mark.
	Wam-o-zah,	his x mark.
	Go-to-cop-wah,	his x mark.
	Wah-cah-co-nah,	his x mark.
	Go-to-cop-wah,	his x mark.
	Kil-son-zah,	his x mark.
	Shaw-ca-com-wah,	his x mark.
	Cah-tah-ke-mon-gwah,	his x mark.
	Mon go zah,	his x mark.
	Wah-pah-ci-tah,	his x mark.

	Wah-sah-ko-lah,	his x mark.
	Sak kah-chau-tah,	his x mark.
	Kah ah-caw-tah,	his x mark.
(Chief,)	O-zan-di-ah,	his x mark.
	Mah-con-zah,	his x mark.
(Brouillette,)	Te-qua-ke-ah,	his x mark.
	Ne-con-syah,	his x mark.
	Sack-em,	his x mark.

Attest: WILLIAM A. MCGREGOR,
To 57 names.

M.

To his Excellency JAMES K. POLK,
President of the United States.

Your memorialists, citizens of the State of Indiana, earnestly request, that the award of the arbitrators, Messrs. Stewart, Fitch, and Murray, appointed by the Miami nation of Indians, in May last, to investigate claims against the said nation, be approved and confirmed, in accordance with the wish of said nation, as made known to you through their agreement in council, at the time of the investigation, and pursuant to the resolution of the Senate of the United States, on this subject, of 24th February last.

The undersigned avail themselves of this means of declaring their full conviction that the award of the above named gentlemen, whatever its amount may be, should and must, from *their high character*, meet with the full approbation of all concerned; and we deem its confirmation very essential to an immediate and peaceable removal of these Indians from our State.

JOHN ROCHE,

And 277 other citizens of the State of Indiana.

July, 1846.

N.

STATE OF INDIANA, *Huntington county, ss.*

You, Elias Murray, Wm. Z. Stewart, and Graham N. Fitch, do severally swear, that you will faithfully, fairly, and impartially hear, examine, and investigate the several matters and claims submitted to you as arbitrators, by and between the Miami Indians and their several creditors, and a just and true award thereof make to each of said claimants, according to the best of your judgment and ability, and the evidence laid before you in each case, so help you God.

I, Wm. G. Johnson, an acting justice of the peace, in and for said county, do hereby certify, that I administered the foregoing oath, in the

precise terms thereof, to said arbitrators above named, this 4th day of May, 1846.

WILLIAM G. JOHNSON, [SEAL.]
Justice of the Peace.

Here follows a certificate from the clerk of the Huntington circuit court, under the seal of the court, of the official character of Wm. G. Johnson.

O.

To HON. THOMAS H. HARVEY, *Sup. Indian affairs*, and
Col. A. J. VAUGHN, *Sub-agent of the Miamis*.

GENTLEMEN: I have been requested to state to you the character and standing of Dr. G. N. Fitch, Wm. Z. Stewart, esquire, and Captain Elias Murray, of this State. Without hesitation or reservation, I can say, of my own personal knowledge, for I have been acquainted with the gentlemen for years, that their character is above reproach; and I know none more generally esteemed throughout the wide-spread circle of their acquaintance than they and each of them are.

Very respectfully, your obedient servant,
E. A. HANNEGAN.

COVINGTON, August 9th, 1847.

P.

LOGANSPORT, INDIANA, August 13, 1849.

GENTLEMEN: I have been requested to state to you the character of Dr. G. N. Fitch, Wm. Z. Stewart, esq., and Capt. Elias Murray.

I have for years been acquainted with these gentlemen, and with the two first have resided in the same town, and can with pleasure say, that their character is above reproach.

Yours, &c. JOHN W. WRIGHT.

To HON. THOMAS H. HARVEY, *Sup. Indian Affairs*, and
Col. A. J. VAUGHN, *Sub-agent of the Miamis*.

Q.

LOGANSPORT, August 8, 1847.

SIR: I have been requested by Mr. Faber to state what I know of the general character of Doctor Fitch, William Z. Stewart, and Elias Murray.

I have known each of these gentlemen for almost twenty years, and

should be constrained to state anywhere, if required to say anything of their character, that it is highly respectable.

I am, sir, very respectfully, your obedient servant,

ABEL C. PEPPER.

THOMAS H. HARVEY, esq., *Sup. Indian Affairs*, or
A. J. VAUGHN, *Sub-agent for Miamis*.

R.

DETROIT, 18th May, 1847.

SIR: I enclose the accompanying letter, which I have received from Mr. Ewing. I have informed Mr. Ewing, that my being the channel of communication would not promote the object which he had in view; but that the Department would look at the subject independent of any opinions which might be presented. Still, as he has preferred that I should forward his letter, and express my views in relation to it, I do not hesitate to do so.

I observe that the act of Congress respecting the change in the mode of paying the annuities is not imperative, but vests the discretion in the Department. Mr. Ewing has certainly given strong reasons why the change should not operate to defeat the arrangements already made with the consent of the parties. It might operate as well *injuriously* as *unjustly*; and it seems to me that the change, when introduced, should be prospective, leaving existing arrangements to be carried into effect under the present order of things.

I am, sir, very respectfully, your obedient servant,

(Signed)

LEW. CASS.

Hon. WM. L. MARCY,
Secretary of War.

S.

On the 8th May, 1847, the Hon. THOMAS H. BENTON enclosed to Col. Medill a communication from P. Chouteau, jr., & Co., on the subject of the operation of the act of 30th March, 1847, so as to interfere with the execution of existing contracts. He says:

“I enclose you a letter from the fur company of Mr. Chouteau, which states a *very plain case*, that of the act of the last session *abrogating Indian contracts*. They only ask that it shall *not apply to existing contracts*. This is *both reasonable and legal*. I should certainly have made it explicit to that effect if it had caught my attention when the act was on its passage, but I knew nothing of it. I solicit the attention of the Department to the case.”

T.

On the 19th May, 1847, another communication from P. Chouteau, jr., & Co., and W. G. & G. W. Ewing, was sent to Col. Medill by the Hon. JAMES B. BOWLIN, with an endorsement by him, as follows:

“ I am no trader, nor in any manner connected with the trade with the Indians, but have read the petition referred to on the other side, and *fully concur in the justness of the positions therein taken, and unite in their claims to protection and relief.*”

ARGUMENT

OF

W. G. AND G. W. EWING,

AGAINST

THE REVOCATION OF THEIR LICENSE TO TRADE

WITH

THE SAC AND FOX INDIANS;

UPON APPEAL TO

THE SECRETARY OF THE INTERIOR

FROM THE DECISION OF THE

COMMISSIONER OF INDIAN AFFAIRS.

WASHINGTON:
GIDEON & CO., PRINTERS.
1850.

ARGUMENT.

Hon. THOMAS EWING,
Secretary of the Interior.

SIR: On the 22d November, 1847, Thomas H. Harvey, superintendant of Indian affairs, at St. Louis, revoked the license of Messrs. W. G. & G. W. Ewing, to trade with the Sac and Fox Indians.

From this order of revocation the Messrs. Ewings appealed to the Commissioner of Indian affairs, who *affirmed* the order. They again appealed to the Secretary of War, who declined to hear the case upon its merits upon the ground that he had no jurisdiction of it? the law, in his opinion, making the decision of the commissioner final and conclusive.

Thus the matter has rested, so far as the Messrs. Ewings are concerned, until the present application by them for a re-examination of it. Not so, however, with Col. Medill, the late Commissioner of Indian affairs. He has thought proper to give it an importance and notoriety entirely unusual in such cases, and wholly unwarranted; and in doing so, has left himself not wholly free from the imputation of having been governed by *personal* and *partisan* feelings. If otherwise, why was the matter embraced in "Executive Document No. 70," communicated to the Senate? There was no *legislative* action proposed in regard to it—nor had it reference to any matter then or since before the Senate, so far as I can ascertain. I have no idea that the gentleman (Mr. Bell) who introduced the resolution making the call for the "*documents*" had any unfair object in view. I suppose that the commissioner had represented to him the *tremendous frauds and rascality of the Messrs. Ewings*, and had prevailed upon him to introduce the resolution. This I infer from the fact, that the resolution passed the Senate on the 8th of August, and the report, transmitting the documents was made on the *next day*. It is perfectly certain, that the papers could not all have been copied and prepared for a report in *one day*. They must have been prepared *beforehand*, and called for by *concert* between the mover of the resolution and the commissioner—the former wishing only to have exposed what was represented as a fraud, and the latter desiring to give publicity to the transaction that *he might obtain credit for it*.

Could it have been possible that Mr. Bell knew when he offered the resolution, or that the Senate knew when they ordered the report to be printed, that *twenty-four* pages of it, (from 23 to 46, both inclusive,) were made up of *extracts from the editorial columns of the "Union"*? of unfair, *ex parte*, and garbled extracts, which must have been prepared at the Indian office *by the commissioner himself*, or by somebody

who acted under his direction. The fact must have been, that the whole was a *trick* of the commissioner, by which he imposed upon Mr. Bell and the Senate, and got a sort of senatorial indorsement to his decision and the *editorials* of the Union, that he might point to them as evidence of *his* indispensable usefulness.

In corroboration of this view, you will find, amongst the printed documents of your office, a pamphlet, entitled "*Indian Trade*"—"The late Sac and Fox payment," and "printed at the Congressional Globe office." This pamphlet is also a republication of the articles from the "*Union*," and I have no doubt was printed by the late commissioner and circulated by him. I have, myself, a copy of it presented me by a gentleman who told me that the late commissioner gave it to him. Of course, I cannot know whether this pamphlet was printed by the commissioner in his *official* character, and paid for out of the public money, or whether it was done as a *private* transaction. In either event it was a *very small business* for a public officer, who, in order to entitle himself to public respect, should act, upon all judicial matters, with fairness and impartiality.

But let the *motive* of the commissioner have been what it may, there is quite enough in the evidence in your possession to show the order of revocation to have been wholly unwarranted, without authority of law, and oppressive.

The letter of Mr. Medill to the Secretary of War, of March 25, 1848, contains the reason of his decision, and the letter of Mr. Harvey to the Messrs. Ewings contains the reasons of the revocation. With the proofs on file, this makes the whole record upon which the present decision must be had, if you should suppose yourself possessed of the power to review the decision.

Upon this question of your power of revision, it may be well to inquire how far is the former decision *res adjudicata*?

It has been established as a rule of action for the several departments not to revise those matters which have already been decided, unless for newly discovered evidence, or for some other *strong* and equivalent cause. This is laid down by several of the Attorney Generals. I have not their opinions before me, but my recollection is that, in those of Mr. Butler, this doctrine is strongly enforced.

The rule here referred to, however, relates only to *claims* against the Government, and has been established to prevent the continual pressing of old and stale claims. I imagine it never was intended to apply to a case like this—where, if one man would refuse to issue or revoke a license, another would not. Suppose I should apply to one commissioner for a license to trade with the Indians, and he should refuse me—would it be contended that such refusal would be binding upon another commissioner? Certainly not. It will not do to carry the rule so far; for, if so, *no* act of a past administration could be reviewed by the one in power for the time being.

But there is a reason in this particular case which overrides all these considerations, and it is that which I suppose influenced your mind

in directing an investigation of the matter. It is stated in my letter of the 10th of July last to you, that the Messrs. Ewings "think there is no difficulty in showing that their license was *unjustly and illegally* revoked, and *that the conduct of the superintendant and commissioner [of Indian affairs] towards them has been oppressive.*" Here is ground sufficient to justify the re-examination of *any* act of the Government. It is an accusation of *oppression* against those whose acts are to be reviewed. If such a review cannot be had, the citizen has no guarantee against the consequences of the most illegal acts.

I apprehend, however, that your letter to the Commissioner of Indian affairs has expressed your views on the subject. Taking it in connexion with my letter to you, it amounts to a direction that the commissioner entertain a motion to set aside the order of revocation, if he shall think, from the evidence, that it should be done. Of course, you would not have directed an examination of the evidence, if you did not intend to have the whole question opened. If it were *res adjudicata*, that would be the end of it.

This, then, I think, settles the question not only of the power, but of the propriety, of re-investigating this matter, and of restoring the Messrs. Ewings to rights, as American citizens, of which they have been unjustly deprived. I shall proceed, then, to a brief argument of the several points—doing little more than stating my positions.

In the first place, I insist that the revocation of a license to trade with the Indians is in the nature of a *judicial* act, and cannot be done capriciously. The trader is required to give bond, upon which he is liable for a violation of law or the several intercourse acts. To revoke his license arbitrarily, would make him *prima facie* liable to the penalty of his bond.

But if it can be so done at the *discretion* of the superintendent, it must be a *legal* discretion—such as a judge exercises.

If a revocation should take place without notice to the party whose license is taken away, and without evidence, I submit whether, under these general rules, it would not be oppressive—if not void. It needs no argument to show the injustice of such an act.

Such was precisely the case here, as you will see by referring to Harvey's letter to the Messrs. Ewings, informing them of the revocation. He says, "IT IS ALLEGED" that the violation of the instructions was brought about by the influence of the Ewings and others, and that a "Mr. Harris" suppressed or destroyed the packet, "*supposed* to contain" them, which Mr. Harris "*is understood*" to be in Ewing's employment. Now by whom were all these things "*alleged*," "*supposed*," and "*understood*"? What evidence of their truth was there before Harvey, at the time of his order of revocation? Not a particle. He had before him nothing but the *statement* of De Baum, which *was not sworn to*, and which De Baum afterwards admitted to be untrue in some of its most material features.

I insist that he had no legal right to revoke the license upon the faith

of this *unsworn statement*. The Messrs. Ewings should have been notified, and the facts investigated, so that the truth could have been elicited.

I shall speak of De Baum's statement more at length hereafter.

The order of revocation was dated November 22, 1847. On the 8th January, 1848, the Messrs. Ewings addressed a letter to the Secretary of War, desiring an appeal from Harvey's decision. This letter was conveyed to Mr. Marcy, through the Hon. Jas. B. Bowlin, January 20, 1848; which is, therefore, the date of the appeal. [See page 51 of Ex. Doc. No. 70, 30th Congress, 1st session.] They laid before the Department the *evidence* upon which they relied to set aside the order, and accompanied it by a statement showing their views of the case. [See pages 67 to 75.] On the 3d of February, 1848, I, as attorney for them, addressed a note to the commissioner, asking him to fix a time to hear the case. I was ready to argue the case at any moment, but waited the pleasure of the commissioner, and the case was not commenced until about the 20th March, 1848. The reason of this delay was, that Harvey might *hunt* up evidence against the Ewings! He did hunt up what he could find—upon which I shall hereafter comment.

During this delay I suppose there was perfect and *secret* concert between Medill and Harvey, and that they understood each other perfectly well—and understood too, beforehand, that each was to sustain the other, and that the Ewings were to be sacrificed. I suppose, also, that this secret arrangement was carried so far as that Medill actually assumed the character of *prosecutor*; in which capacity he must have sent copies of the papers filed by Ewing, upon his appeal, to Harvey, that the latter might inspect and answer them. I infer this from the fact that, in Harvey's letter to him, of February 18, 1848, [see page 88,] he says, "strong efforts have been made by Mr. Ewing *in his appeal*, &c." He then goes on to argue the case upon what Mr. Phelps and Mr. Sarpy have said in their deposition; and the whole letter shows that he was advised as to what was on file in Washington. How else could he have known what Ewing had stated in his appeal, or what Phelps and Sarpy had sworn to?

But there is other evidence that this supposition is true. At page 120 there is another letter from Harvey to Medill, dated 25th March, 1848, in which he again speaks of what Ewing has said in his appeal; attempts to sustain the testimony of De Baum, and to furnish an apology for his having admitted that Phelps's deposition was true. He also communicates letters from Krum, Wilson, Barney, Sigerson, and Wheeler, to sustain De Baum; all of which was done in answer to Ewing's appeal.

Now, if it be true that this understanding did exist between Medill and Harvey, and that papers on file in the office were copied and sent to Harvey, (from whose decision the appeal was taken,) and the hearing of the appeal postponed till Harvey could have time to *make a case*

against Ewing; can stronger evidence be asked of the fact that Medill had prejudged the whole matter, and was unfit to decide it impartially?

All doubt on this subject is removed by what Harvey says on page 87, where he admits that he had received a copy of Ewing's appeal, with the documents accompanying it.

After the reception of Harvey's letter of Feb. 18, 1848, the argument was made before the commissioner in favor of the Messrs. Ewings by Judge Bowlin and myself. The papers communicated with the letter of Harvey of 25th March were not before us, and were, therefore, no part of the case *at that time*. These are dated at St. Louis, on the 23d and 25th of March, which latter was the day Medill's letter to Marcy is dated. [See pages 1 and 120, 121, 122.] I never heard of them until I saw them in the printed document. The case, as we argued it, was decided against us, and we appealed to the Secretary of War. After some correspondence and several interviews with Mr. Marcy, he decided that he would not examine the case, as he had no appellate jurisdiction—the law, in his judgment, making the decision of the commissioner final. [I refer you to these papers in the War Department.] And here the matter has rested until this application.

I now proceed to notice, particularly, the points in the case.

1st. I insist (as already stated) that Harvey had no *legal* right to revoke the license *without evidence*.

He acted *alone* upon the statement of De Baum, which was *not sworn* to, and was wholly *ex parte*.

2d. It was the *duty* of Medill to set aside the order of revocation upon the hearing before him, inasmuch as the facts detailed by De Baum are *proven* to be false.

In prosecuting claims against the Indian bureau, while Medill was commissioner, the claimant was not only required to prove his claim by the *sworn testimony* of witnesses, but also to have the character of those witnesses *endorsed* by some person known to him. In one case, which was prosecuted by me [the heirs of H. Lasselle, deceased, vs. The Pottawatamies] he objected to the statement of a United States Senator [John Tipton,] because it was not sworn to! And the testimony of others, because their character was not vouched for. Now, can it be for a moment pretended, that it is right for the Government thus to act upon cases of this kind, while it predicates its own action upon *unsworn statements*, which affect the character of American citizens and injure their business? Stronger evidence of oppression, it seems to me, can no where be found.

The Messrs. Ewings, when they prosecuted their appeal, were well aware of this rule of the late commissioner, and, consequently, brought themselves within it. Their appeal was accompanied and sustained by the *sworn depositions* of William Phelps, [exhibit C, page 55,] Isaac G. Baker, [exhibit D, page 59,] John B. Sarpy, [exhibit E, page 61 and page 85, where the same is signed and sworn to,] and by the *official* statement of Maj. Beach, [see exhibit H, page 66.] For the "high standing and undoubted credibility" of Jno. B. Sarpy, they referred to

Hon. T. H. Benton and Hon. J. B. Bowlin, (who endorsed it in my presence,) and for that of Capt. Phelps to Hon. S. A. Douglass. They did, therefore, all that, by the strict rule of the office, they were required. You may well suppose, then, that both they and their counsel were surprised when they found the commissioner sustaining the *statement* of De Baum, and discrediting those of Sarpy and Phelps—men who, for integrity and honor, are quite equal to the late commissioner.

It is evident that Harvey had no other evidence before him, at the time of the revocation, than the statement of De Baum. In his letter of 22d Nov., 1847, (the day of the revocation) he said to Medill that this was to his mind “*sufficient evidence* of the connexion” of the Messrs. Ewing “in suppressing the instructions” forwarded by him to Maj. Beach. He states, also, that he regarded them as “unsuitable persons to trade with the Fox Indians,” because they were the principal traders, and the annuities of the Indians had been greatly reduced, [page 47.] This, however, has cut no figure in the case. If it did, the Messrs. Ewings would have as little difficulty in showing it to be false and malicious, as they have had in showing De Baum’s statement to be so.

What business had De Baum at the payment? He has failed to explain this, although for the purpose of showing that J. B. Sarpy made dishonorable propositions to him in relation to the instructions, mode of payment, &c.; he has, indirectly, admitted that he was acting as agent for a house that had a claim against the Indians, and was there for the purpose of getting the money.—[Page 49.] Being there, then, on this business, he also had an interest in having the payments made *nationally*—for, so far as the mode of payment was concerned, he occupied precisely the same position as the other traders. This explains what he said to Phelps *after* the payment, at which time he admitted his agency in having the instructions suppressed, &c., and said he thought the traders “ought to give him some money!”—[Page 58.] It also explains the request of Sarpy to loan the Messrs. Scott \$1,000, as testified by Baker, [page 60] and by Sarpy, [page 63.] But more of this hereafter. This reference is only intended to show the *motive* of this man, who so willingly *volunteers* his statement.

As De Baum went to the payment to get money, he also knew, before he left St. Louis, that the *instructions* had been forwarded. He says, [page 48,] that “*on his way to the agency*” he learned “that *the instructions* had not arrived at Westport.” What, then, did he do? Did he go on to the agency as did George W. Ewing? (for W. G. Ewing was not there.) Not at all; he remained at Kansas and *Westport*. What for? To wait, of course, for the instructions. The sequel shows what he intended to do with them.

He details a conversation with Sarpy, and a proposition by the latter to produce a combination to bring about a *national* payment. With this the Messrs. Ewings have nothing to do. It is not brought home to them; for De Baum, himself, does not pretend that they ever made

such a proposition to him, or that he ever communicated this to them. Sarpy *swears* it is untrue, and he may well let it rest, so far as his reputation in St. Louis is concerned, just where it is left. He is not likely to be injured by such an imputation from such a source, though backed by both Medill and Harvey. But I am not entering on his defence. Where he is known he needs none.

So soon as Sarpy had ascertained that the mail, which arrived from St. Louis, did not bring the instructions, (according to De Baum's statement,) he left for the agency. But De Baum did not go with him. Why not? He himself explains the reason. So soon as Sarpy had gone, HE "*proposed* to E. Price, postmaster at Westport, that if he would give me [*him*] an order, I [*he*] would go down to Independence," would stay from that day (Wednesday) till Saturday, *at his own expense*, and "*bring up the mail.*" How very *liberal* it was for this man to do so much at *his own expense*, when he had no object to accomplish! He is a prodigy of *kindness*.

He got the order, went to Independence and received the mail, which he *supposed* contained the instructions. Thus, by his own admission, this package is traced into *his* hands. He is the only man who had claims against the Indians who is shown to have had it. It is no where pretended that the Messrs. Ewings ever saw it. Up to this time De Baum had not seen them.

He then details the circumstances under which, on the 17th September, he gave the package to "a Mr. Harris, a young man in the employ of the Messrs. Ewings." He says that Harris presented an order from Beach, whereupon he delivered him the mail.

Admitting for the sake of argument that this is true, (and I shall hereafter show that it is all false,) what does it prove? It will be recollected, that the revocation of this license involves a *criminal* charge against the Messrs. Ewings; a charge of having surreptitiously obtained possession of, and destroyed a part of, the U. S. mail. It is a direct accusation against them of having committed a very high *crime*. Now, is there any court, any jury, any *impartial* tribunal in the land, that could, by possibility, find them guilty upon such evidence as this, even if it were all true. De Baum does not pretend that he gave them the mail, or that he ever conversed with them a word on the subject. He says, he gave it to a man who was in their employment. What of this? Suppose Harris was in the employment of Ewing; does it follow that Ewing was a party to the crimes which he may have committed? Certainly not. Such a rule would create peculiar and entirely new relations between *principal* and *agent*, and would violate the plainest rules of law and justice. I shall recur to this again.

But De Baum, himself, shows that this statement of his, that he gave the mail to Harris, is all *false*; that it is made out of whole cloth, to cover his own criminality. Mark what he says. On the day after his arrival at the agency—(of course after he had given the mail to Harris,) he asked Maj. Beach, "*if he had the instructions?*" To this question Beach replied "*that he had not—the reason they had not been forwarded he did not know.*" Now, it was natural enough for him to ask

Beach if he had the instructions, if it were true that he had given them to Harris; but it is wholly inconsistent with *honesty* on his part, to say nothing about what had become of them when Beach made the reply he did. He saw Beach was perplexed, and talked of resigning; and yet he said *not one word about his having had the mail the day before, or his having given it to Harris*. Now, it is perfectly apparent, that he either did not give the mail to Harris, or if he did, that he was *particeps criminis* with Harris in its suppression. He cannot escape one or the other horn of this dilemma. Either of them proves him to be unworthy of credit. There is not a court or jury in the land who would believe him. He has shown himself to be what the books call a "*wilful* witness."

But, like most other knaves, he has become entangled in the meshes of his own net. During the next day, after he had talked with Beach about the instructions, he says, he "*observed the traders busily engaged training the Indians, &c.*" Then he knew perfectly well what the traders were about, according to his own statement. Still he kept entirely to *himself* the important fact that *he* had got a package from the post master at Independence, directed "John Beach, United States Indian agent, Sac and Fox agency;" and delivered it to "*a Mr. Harris.*" He even helped Maj. Beach pay out and divide the money on Monday, and still kept all this a secret. It seems to me that there are not two other men in the United States, besides Medill and Harvey, who would believe one word this man says; and that they only believe it because they *wish to have his statement true!*

But see the brazen-faced effrontery of this man. He continues "*before leaving the agency for home, I learned, to my surprise, that the mail I had delivered to Mr. Harris had not been delivered to Maj. Beach.*" How long *before* he left? Did it never occur to him, during his interviews with Beach at the agency, and while they were talking about the instructions, and while he was helping Beach to count the money, to tell about his having delivered the mail to Harris? Can it be supposed that an important matter like this had escaped his recollection, when, all the time, as he says, he supposed it contained the instructions? About these very instructions he talked with Beach *before the payment*, and Beach expressed to him his surprise that they had not been forwarded; yet he keeps studied silence about the mail, and now pretends that he did not learn until *afterwards* that Beach had not received the package he had delivered to Harris! When he did learn it, he was greatly "*surprised!*" Did ever man more completely, out of his own mouth, condemn himself?

Now, I wish it to be particularly observed, that in all this statement of De Baum he does not say one word of Ewing's agency in the matter. He no where pretends that he ever exchanged a word with Ewing on the subject, or that Ewing knew any thing about it. Of G. W. Ewing, he only says, "Among those loudest in the abuse of the Government in general, and *Mr. Medill in particular*, I will name Col. G. W. Ewing, and the firm designated "*the company.*" Here

he unwittingly let the cat out of the bag, and furnished the entire ground of the action of both Harvey and Medill. 'This is the only statement which he makes in relation to Ewing; but it was quite enough for the late commissioner. I do not know who caused the words "*Mr. Medill in particular*," to be italicised in the printed pamphlet on page 50; but whether it was done by De Baum, or Harvey, or Medill himself, it is evident that it develops the true ground of the revocation and the refusal to set it aside. "*Mr. Medill in particular*," was *abused* by Col. Ewing, and that was enough for Mr. Medill to know. Harvey knew his man; he kept his eye upon the "powers that be," and, therefore, he took good care to have this *important* fact fully stated; for without it *Ewing* could not be sacrificed. And *thus* you are now to re-affirm or revoke. If you shall do the former, what security is there, under the Government, for property or reputation? Can it for a moment be tolerated, that the Indian bureau shall be resolved into an inquisitorial chamber, where every thing that is prized by the citizen is to be sacrificed beneath oppression of the rankest sort? From such a rule of action the Messrs. Ewing fearlessly and confidently appeal to you.

De Baum says that he "returned by way of the Pottawatamie agency." Why did he go to this agency? He says, in his statement, that he was anxious to "facilitate his return home," and therefore went down to Independence after the mail. Why did he not go home directly after the payment? Instead of going, we find him loitering about the agency several days—(Sarpy says "*about two days*," page 63,)—trying to borrow money, &c. The truth is, he went after money, did all he could to get it, and when he found he could not, made up the whole story about Harris, and all at once became so *honest* that he determined to tell Beach of it as soon as he got to *St. Louis*!

At the Pottawatamie agency he says he saw Harris; talked with him about the mail; that Harris told him he had "delivered it to a person at the store of the company, who had handed him the order," and requested him "not to say anything about it." The name of the person to whom he said he delivered it Harris said "he did not remember." Now, let us see how *probable* a story this is. The order which De Baum says Harris handed him he knew to "be Major Beach's handwriting." Yet this order he kept in his pocket during all the time of the payment at the Sac and Fox agency; did not say a word to anybody about it, but kept it a profound secret, until he met Harris again at the Pottawatamie agency, *which was a considerable distance out of his direct route home*. He did not determine to tell Beach about it, until Harris told him not to say anything about it! He must have gone to the Pottawatamie agency in company with some of those who were at both agencies. At all events, he had seen the *national* payment made to the Sacs and Foxes; had helped to count the money; knew that the instructions were expected directing a *per capita* payment; knew that Beach had not got them, and yet did not say a word about it till his conversation with Harris on the Osage river. Is all this to be supposed true, upon any other state of the case than that made against this man

by the sworn statements of Sarpy and Phelps, who explain his conduct fully?

Yet it is alone upon this statement of this man, De Baum, that Harvey revoked the license of the Messrs. Ewing. Most truly did they characterize it as an act of "unprovoked injustice;" for I venture that, amongst the records of the Government, one more in violation of justice cannot be found.

When the case came on to be heard before Mr. Medill it was somewhat changed. The manner in which this was done I have already stated. The *prosecution* introduced *other evidence*, which Harvey, in the mean time, had hunted up. This I now propose to examine. They are embraced in "File No. 6," commencing on page 86; and the first is the letter of Harvey himself, of Feb. 18, 1848, making an argument against the Messrs. Ewings, and in behalf of himself and De Baum.

He states the result of an Indian council, and what was said by two Indian chiefs—Appenouse and Keokuk. In reply to what he had said to them about their demanding their money, the former said that their only object, in what they did at the payment, was "to hurry the payment;" and the latter corroborated this statement, but added also, that "Mr. Phelps, in the trading house of P. Chouteau, jr., & Co.," had told them "that they ought to demand their money *immediately*." He then adds—what is too important to be overlooked—that, although these Indians did not say, "in direct language, that it was these statements that induced them to use threats in relation to their payments, *it was evidently the intention of Keokuk to convey that idea*." How perfectly ridiculous is all this stuff. He interrogated the Indians, and although they did not say anything to implicate the traders, yet it was "*evidently their intention*" to do so; that is, they *intended* to say just what they did not say. Was there ever a more ridiculous pretence?

But suppose it is all true that Mr. Phelps did advise the Indians to demand payment immediately, &c., &c.; how does that affect the Messrs. Ewing? They had nothing to do with Mr. Phelps, who belonged to another house, and is the brother of Wm. Phelps, whose deposition they have filed. Even Harvey does not pretend that the Indians *said* anything, or *intended* to say anything, showing that Ewing had advised them.

He contradicts a statement of Mr. Trustin Polk, or, rather, seeks to escape the effect of it. Mr. Polk states [page 65] that Harvey had told him that De Baum's statement contained "*all the grounds*" on which he revoked the license. He says he told Polk that the matter "was before the Department, and that Mr. Ewing had been furnished *with a copy of Mr. De Baum's statement*." Now, if De Baum's statement was not the only ground on which he acted, why did he not say so to Ewing, and to Polk, his attorney? Wherefore the necessity for secrecy and trick? Certainly Mr. Ewing had a right to know "*all the grounds*" on which he acted; and if he furnished him only with a copy of De Baum's statement, when he *secretly* designed to furnish *other grounds*

to the Department, he acted unfairly. But he himself has furnished evidence of the truth of Polk's statement. He says, that "he had reason to believe that if the facts *could be come at by an investigation*," the "*statement of De Baum*" would be "sustained." Therefore he had instructed agent Sublette to "inquire into the circumstances," and "to report the facts in the case." It was "on this account" that he declined stating to Polk that De Baum's statement was all the ground on which he acted. Now, it will be observed that, at the time of this conversation with Polk, this "investigation" had not been had; the facts to which he refers had not been "come at;" and that "agent Sublette" had not "inquired into the circumstances," nor "reported the facts in the case." Then, it is a fact, that *at the time* he revoked the license he knew nothing more about it than what De Baum said to him; for every thing besides De Baum's statement, upon which he now relies, has been obtained *since* the revocation. His own statement, therefore, sustains Polk. But there is additional evidence of the truth of what Polk says, and of the falsehood of Harvey's denial. It is furnished by Harvey himself. In his letter of November 22, 1847, to Mr. Medill, [page 47,] informing him that he had that day revoked the license of the Messrs. Ewings, he says that the statement of De Baum is "to my mind *sufficient evidence*," &c. He makes no pretence that there is any other ground of revocation. Nor did he pretend to any other, until Ewing's appeal was taken, and he had been furnished with all the evidence relied on by Ewing, with the necessary instructions from Medill.

He comments upon an extract of a letter from Beach to him. With this I have nothing to do. It is no part of the case of the Messrs. Ewing. It does not, in any degree, implicate them. Beach has probably spoken for himself; and I protest against having him connected with the Ewings, unless there is evidence of a combination between them.

He says there are "facts and circumstances" which sustain the "most important part" of De Baum's statement; and that De Baum *told him* that the reason why he did not mention to Beach that he had delivered the mail, on his order, to Harris, was, that "he supposed Mr. Beach had received the packet delivered to his order, and that there were no instructions in it." De Baum gives no such reason in his statement. It is an after-thought. The only evidence of his having given it at all is, that Harvey says he *told him* so. But is it true? De Baum knew, at the time of the payment, that the man he gave the mail to was named Harris; and all agree that Harris was not at the payment. De Baum did not see him again until he met him at the Pottawatamie payment, on the Osage river. Now, if he did not see Harris at the Sac and Fox payment, why did he suppose Beach had got the mail? Must not the fact of Harris not being there have excited his suspicion? It would be strange if he could deliver the mail and not be there? This pretence is far too shallow to deceive any impartial mind. He raises up a man of straw, that he may display his ingenuity in knocking him down again. He says "it has been questioned whether Mr. De Baum had an order

from Mr. Beach or not;" and then, to prove that he has, says that it has been "exhibited" to Mr. Haverty, the clerk in his office, who pronounces it to be the handwriting of Mr. Beach. Who questioned the existence of the order he does not say, nor does it matter. It was perfectly natural for Beach to give the order, as well as that he should not recollect who he gave it to. He was anxious to get his mail, and would, no doubt, have sent by almost any body who was going down. Beach has, however, explained all about it. He says that he got a mail by McGee, and therefore thought nothing more of the order. He gave it, because he heard that McGee was going down; [page 99.] But I shall not enter on the defence of Beach; though I would have little difficulty, if I did, in answering and explaining all the imputations contained in "Ex. Doc. No. 70," against him.

His *main point* and leading argument, in favor of De Baum, is contained in the following sentence. "Several of the witnesses insist that De Baum suppressed the instructions himself; but *none have attempted to explain how he came in possession of the order.*" This he calls "a material fact," and insists that, until explained, De Baum's statement "cannot be falsified." This is a most singular conclusion. What has Ewing to do, or what have the witnesses here to do, with the manner in which De Baum came in possession of the order? That is the business of De Baum alone. He says he got it from Harris, and because no body states otherwise, therefore, says Harvey, it must be true. Can Ewing be required to prove a negative, and that, too, about a matter of which he could know nothing; for De Baum does not pretend that he was present, or that any of his witnesses were present, when he received the order? No body could know any thing about it, except De Baum and the man who gave it to him. If that man's testimony could be procured, he could tell all about it. But who was he? De Baum says he was Harris; but Harris denies it most positively, and says he "*never saw Major Beach,*" and "*was not at his agency.*" He also denies having seen De Baum at the Pottawatamie agency; [pages 102, '3, '4.] True, Harris's statement is not sworn to, *nor is De Baum's.* They stand upon the same footing, with the exception that there is nothing exhibited save De Baum's statement in conflict with Harris's, while De Baum is contradicted *by himself*, and by Sarpy and Phelps, and shown to be unworthy of credit.

He then refers to McGee's deposition, [marked C, page 96,] which details a conversation between him and De Baum, and upon which Harvey puts great stress. McGee says he "left Westport on *Saturday*, previous to the payment; Mr. De Baum, of St. Louis, left Westport *on the day previous,*" &c. This statement is repeated by Harvey. It is contradicted by De Baum, who says that he went down to Independence and back to Westport on *Wednesday*, and left the next morning [*Thursday*] with the mail. McGee, then, is mistaken as to the day; but this is not very important. He did not see De Baum until he arrived at the agency. When De Baum told him that he had delivered the mail to "*a young man, on the road, who had an order,*" &c.

Upon this fact Harvey and Medill place great reliance; because they think, as Harvey says, that he made the statement "*before the payment*, and also before any difficulty had occurred in relation to his alleged disappointment in collecting money." It makes precisely the opposite impression on my mind, and is proof against De Baum. Notice McGee's language: He says that, in his conversation with De Baum, *at the agency*, De Baum told him that he supposed the mail he had given "a young man," contained "the instructions in relation to the mode of payment of the annuities." This contradicts what Harvey (page 88) says that De Baum told him; that is, that "he supposed Mr. Beach had received the packet delivered to his order, *and that there were no instructions in it.*" If he, in fact, did so suppose, why did he tell McGee that he *supposed* the contrary? But, again, if he supposed that "Mr. Beach *had received* the packet," why talk to McGee about it, and to no body else; or, wherefore the necessity of talking about it at all? But, in any view of it, why select McGee as the only man to tell it to, when he admits that he saw Beach perplexed because he had not received the instructions, and that he talked with him about them? And if he did talk with McGee, why did he not then tell him what he afterwards told Harvey; that is, that he "supposed Beach had received the packet, and that there were no instructions in it?" View this testimony as you may, it presents this man, De Baum, in a most unenviable light. What, then, becomes of Mr. Harvey's *sage* conclusion in his favor? It falls to the ground, of course.

Harvey next refers to the statement of R. A. Kenzie, (page 95, '6.) This statement details conversations with S. S. Phelps, with De Baum, and with J. B. Sarpy. He says that Phelps "*intimated*" to him that "*he wanted a trusty person to send after the mail, and to keep it back till the payment was made;*" that De Baum told him that he had given the mail to a man between Westport and the agency; and that Sarpy, in talking of the mail, said "that the man Ewing sent for the mail was a fool," &c.; and "that Ewing had kept him locked up in one of his houses, to prevent his being seen."

This statement of Kenzie is *not sworn to*. Why was it not? Was there no justice of the peace in Westport? Not being sworn to, it is not *evidence*. It lacks the most essential element of evidence—an oath—and cannot therefore be regarded as any thing more than *hearsay*, and not even as entitled to as much weight as some kinds of hearsay evidence.

But who is this Mr. Kenzie—this reliable witness of Harvey and Medill—this man upon whose unsworn statement such men as S. S. Phelps, J. B. Sarpy, and G. W. Ewing, are to be convicted of crime? Fortunately we have his character sufficiently proven. Harvey, in his letter of February 23, [page 124,] says, that he had been a sutler at Fort Des Moines; that in 1844 S. S. Phelps had charged him with having received "*improperly*" \$2,000 from Long Horn, a Sac brave, and that he [Kenzie] "*does not deny receiving the money.*" The letter of Maj. Beach, of October 19, 1846, [page 125,] charges him

with having been in the practice of "furnishing large quantities of liquor" to the Sacs and Foxes, and with having traded with them "in a clandestine manner, without license, and at the same time in open defiance of an express regulation of the War Department prohibiting *him* from trading." This letter also contains an extract from a letter of the Commissioner of Indian affairs, dated September 22, 1843, to the Governor of Iowa, in which he is directed to instruct Major Beach not to license this same Kenzie. The statement of S. S. Phelps is on page 126, wherein he charges him with having received the \$2,000 from Long Horn, who "passed it behind him into Robert A. Kenzie's hands, &c.," and that Keokuk and Appanoose (the two chiefs who held the talk with Harvey, which he mentions on page 86) said that Long Horn had *stolen* it. The sworn statement of Alonzo Prentiss [page 126] proves him guilty of selling liquor to the Indians and making them drunk. Opposed to all this array of evidence against this man is the single certificate of Solomon P. Sublette, (page 127,) who says, that "from *circumstantial* evidence" he can certify that he is fit to be in the Indian country. Need I say that the *unsworn* statement of a man like this is not to be relied on? It is not worthy of credit, even if it were sworn to. Even Harvey is compelled to admit that he got one-half of the money which Long Horn stole from his tribe. And he must have known that it was stolen, for he sat by and saw Long Horn steal it, when he took his share, and "immediately left the room." Yet Harvey and Medill, both *knowing* the dishonesty of this man, have made him one of their principal witnesses in this case. They have called *him* to the relief of De Baum. *Par nobile fratrum!*

But Harvey and Medill knew well enough what they were about—they *knew their man perfectly well*. They could not doubt for a moment, from their knowledge of Kenzie, that he was burning for an opportunity to avenge himself upon the *licensed* traders, and especially upon Phelps, who had charged him with receiving stolen money in 1844. They therefore get Major Cummins to write to him and get his statement, which he willingly furnished; and when obtained, Medill has the *assurance* to attempt to bolster him up, by saying that "he is well and *favorably* known to many of the officers of the Army, and to others who had business "at Fort Des Moines," [page 15,] when *he knew all the facts I have enumerated in relation to him!*

It is by the testimony of this man *alone* that it is sought to connect Ewing with the lost mail. Harvey says it clearly connects *Phelps* and Ewing together. Not so. Even Kenzie does not say that Ewing made any proposition to him, or had any means of knowing what Phelps said to him. What has Ewing to do with Phelps's propositions? Is he to be held responsible for the acts of every body who trades in the Indian country? If Kenzie has told the truth in regard to Phelps, (of which I have not the most remote idea,) Ewing has nothing to do with it. Not a single witness carries it home to him.

It can only be pretended that Ewing is affected by that part of Kenzie's statement which relates to what took place between him and

Sarpy—and this is mere pretence. Kenzie says that Sarpy told him “that the man Ewing sent for the mail was a fool, &c., and that Ewing had kept him locked up, &c.” Now, it is not very likely that such a man as J. B. Sarpy would select, on a subject like this, *such* a confidant as R. A. Kenzie. He has *sworn* to the reverse. His whole deposition contradicts it. Is his *oath* to be disregarded, and the statement of Kenzie to be taken?

But suppose Kenzie tells the truth, how is Ewing to be affected by it? It is a mere conversation with Sarpy, which cannot bind him. It is *hearsay*, which cannot be received for any purpose. Ewing is not to be bound by what Sarpy may choose to say, unless he is present and approves what is said. This is the invariable rule in *all* transactions. Why depart from it in *this* case?

Harvey says [page 90] that Dr. Spaulding told him that De Baum stated to him that the reason he did not inform Major Beach of his having delivered the mail to a man on the road was, that “his friends, the Scotts and Whistler, informed him that a *chief payment* would be to their advantage, and *requested him to say nothing about it.*” This is not the reason he gave to Harvey. Which is true? Both cannot be. He is fully within the rule, “*falsum in uno, falsum in toto.*”

Harvey and Medill have both commented, and the latter at length, upon the statement of Ewing, that “no such man as Mr. Harris is [*was*, on the 18th February, 1848—the date of their appeal] in their employment, or authorized in any manner to act for them, or mentioned in any license granted to them.” Harvey says that he went up the river with Ewing, and that he found him at Ewing’s trading-house, at the Sac and Fox agency; that he denied knowing any thing about the mail, and that he left him in the Indian country, “where he has been for the last four or five months, if not in the employment of Mr. Ewing, *certainly spending his time with the Colonel and at his trading houses.*” To make all this as *forcible* as possible, he had to assume that Ewing had attempted “to make it appear that no such man as “a Mr. Harris’ existed.” Ewing had attempted no such thing. He only denied that Harris was in his employment, or had authority to act for him. And what is the proof to the contrary? Harvey does not furnish it. He was in the Indian country, *hunting* up evidence on this very point, as well as others. Why then did he not find it, if it were true as he has stated? Every thing he could find on the subject was, that Harris was “spending his time with the Colonel and at his trading-houses.” He did not see him *acting* for Ewing. The fact is, as Harris states in his letter to Harvey—and Harvey knew it—that he had been trading with the Winnebagoes, on Turkey river, near Fort Atkinson, under a license issued by Harvey himself. (See Harris’ letter, page 103.)

But Medill goes farther than Harvey, and makes Mr. Harris cut quite a figure in his report. He thinks that Harris contradicts Ewing. Not so. Harris says that he has “been *travelling in company with, and assisting* G. W. Ewing, *more or less*, since about the 21st of Septem-

ber last, &c.” Now, it is perfectly apparent that Harris did not mean to say that he was an agent for Ewing, or that he was regularly in his “employment,” and authorized to act for him. The plain import of what he says is, that *when he travelled* with Ewing, he *assisted* him, but at no other time; and this was only occasionally, as is indicated by the words “more or less.” This is what Ewing meant. It never occurred to him to deny the existence of Harris, or that he knew him. All that it was necessary for him to do was, to deny that he had any *authority* to bind him by any act which he might do—and in this he is corroborated by Harris, and not contradicted by any thing in the case. It was wholly gratuitous, therefore, for Col. Medill to charge him with a want of candor. Such a charge more properly lies at his own door, as is proven by what he says of this Mr. Harris. He says “but little reliance can be placed upon what Harris says,” and, in connection with this very expression, makes him *his* witness to convict Ewing of falsehood. If he is not worthy of credit, why make such a parade of a fact which he claims to be proven by him? Is this candid? or, rather, does it not amount to this, that he has picked up just such parts of these statements as suit his preconceived views, and rejected all the rest?

And this last remark will apply to another portion of his comments on Harris’s statement. He says that Harris admits that he left the Sac and Fox agency “about daylight,” on the day after the Sac and Fox payment, in company with G. W. Ewing. From this he would have it inferred that Harris got the mail—for he says this is *probably true*, and all the rest false! Why does he not take the whole of Harris’s statement? Is it fair to select a sentence here and there from what a man may say, and treat that as true merely because it sustains your opinions, and reject the remainder? I know no parallel to such rank and downright injustice. Harris’s letter fully explains the cause of his visit to the agency—that he got there *the night of the day on which the payment was made*, and left the next morning, because he and Ewing wanted to be at the Miami payment. That he had gone after Mr. Ewing, at the instance of Mr. Clymer, for the purpose of having him there. All this, as well as his unqualified denial of what De Baum says, is overlooked by Medill, and treated as *false*, merely because, if true, it would take away from him every apology for punishing Ewing, which he was determined to do, *because Ewing had abused him!*

But when Medill comes to parade the *unsworn* statement of Henry M. Rice, [page 16,] he charges Ewing with having made the “solemn and positive averment,” that “no man of that name [Harris] was or HAD BEEN in any way employed or used by them.” And this he does, that he might fix upon Ewing the charge of falsehood. Let us see at whose door this charge properly lies. There is no where, from the beginning to the ending of this case, any averment of Ewing, such as Medill has here accused him of making. He said this, and nothing more on that subject—“that no such person as ‘a Mr. Harris’ is in the employ of the undersigned, or authorized in any manner to act for them, &c.” He did not say, as Medill has it, that “no man of that

name was or HAD BEEN in *any way employed or used by them.*" What *is* now, is one thing, and what *has been* is another. Wherefore this perversion of Ewing's statement? No other motive can be assigned for it than the general one, which has prompted this whole prosecution against him. Certainly he had a right to expect that what he had said would be *truly* stated by the officers of the Government, whatever they might otherwise do to *convict* him of an offence of which he is as guiltless as themselves. Even Harvey has not endeavored thus to mutilate the statement of Ewing. It was left for the late commissioner!

It is unnecessary to notice the statement of John Goodell, or what Harvey says on that subject. It relates only to Mr. Sumner Phelps, and has no reference, whatsoever, to the Ewings. It does not even go so far as to charge him with any thing else than a wish to have the payment made nationally—to which he had a clear right, beyond all question.

Harvey says that "similar views" to those urged by Mr. S. Phelps, "were urged by Mr. William Phelps, as stated by Keokuk." Not so; Keokuk states no such thing, but the reverse. The main point, in the statement of Goodell, in relation to S. Phelps is, that if the agent did not pay the money upon demand, *force* should be resorted to. Now Keokuk expressly says, that "they had no intention of taking the money by *force*;" and that Mr. Phelps said "that they ought to demand their money *immediately*," [page 86.] It seems almost impossible for these gentlemen to advance at all with their statement without a misrepresentation of what the witnesses or parties have said.

I do not think it important to the present inquiry to notice what Harvey has said in relation to what he *believes* the traders designed to do, at the payment to the Pottawatamies on the Osage. But, lest it might be supposed that the Messrs. Ewings were indefensible on this subject, I will do so. It is easily done, and an explanation will show that Harvey has treated this matter, as he has done the whole case—with great unfairness. He says [page 92] that "*in proof of*" this belief of his, he refers "to Col. Vaughn's letter marked F, &c." Now, what does he mean by the course which he says they were disposed to take? Of course to cause the Indians to resort to *force* to have a national payment. This is the gravamen of this accusation. If you will examine Vaughn's letter marked F, [page 100] you will see that nothing of this kind is stated—nor any thing from which it can be properly inferred. Indeed, it states nothing as having been done by either Sarpy or Ewing, which it was not perfectly fair and honorable for them to do. [See exhibit HH.] They held the *national obligations* of the Indians, executed *before* the act of Congress giving the President discretion to order per capita payments, and executed with the consent of and pursuant to the universal sanction of the Government. They had a *right* to their money according to the contract, and it was both fair and honorable that they should, if possible, persuade the Indians to pay them *nationally*—knowing, as they did, that if the money were distributed per capita they would get nothing. It was with this view,

to secure their rights, that they called three times on Vaughn. And the object in doing so was simply this—to ascertain of him whether, if the Indians would consent to set aside \$17,500 for the payment of their debts, he would consent; or whether he would do so, if they would refuse to receipt for the money, “saying they wished it to be applied to the payment of their debts.” [See Vaughn’s statement, page 100, 101]. Now, what earthly harm or wrong was there in this? If the Indians would agree to pay their debts, what reasonable objection could the Government have to it? I have already said that these *national* debts had been created before the order to pay per capita was made, and the Indians had agreed to pay them *nationally*. The Government had never denied their right to do so. This contract could not be legally violated, and it is very clear that the order to pay per capita did violate it by *impairing its obligation*. In point of fact, then, the order was void, so far as it relates to past contracts. Whether it was or no, however, the case stands thus—that all that Sarpy and Ewing asked of Vaughn was, whether, if the Indians were willing to execute their contract, he would permit them to do so. This he refused. Why? Because he had been so instructed by Medill and Harvey, and they were resolved that Ewing should have no more money if they could help it. Whenever public officers lend themselves to such conduct as this, and refuse to permit the Indians to be honest when they desire to be, why should we wonder that they are debased?

As to the *right* of the traders to demand their money, according to the mode of payment which prevailed *before* the passage of the act of March 3, 1847, I refer to the letter of General Cass addressed to Mr. Marcy, [see exhibit EE,] and the reply of Colonel Medill to that letter, [see exhibit FF,] in which he promises that “due regard will be had to the just and *bona fide* claims” in “framing the instructions to the agents.” With such a promise as this, could the Messrs. Ewings suppose, for a moment, that Colonel Medill would afterwards so frame his instructions as to violate their rights, without seeming to do him injustice? They did not so suppose until actually informed of the fact.

Besides this promise to General Cass, they were also assured, to the same effect, in a letter from Colonel Medill to themselves and P. Chouteau, jr, & Co., dated May 19, 1847. [See exhibit GG.] Yet *all* these promises were violated by Colonel Medill, and by his instructions Mr. Harvey actually refused to pay over to the creditors \$20,000 of the \$50,000 specifically set apart for the payment of debts by the 5th article of the treaty of 1846. This was accomplished by *secret* instructions from Harvey to Vaughn, as will be seen by reference to the statement of Vaughn, [see exhibit HH,] and Clymer’s deposition in the printed pamphlet already furnished you, in the case of W. G. & G. W. Ewing *vs.* The Pottawatamie Indians.

I have thus noticed every material portion of Harvey’s statement of the 18th of February, because this is the foundation of Medill’s opinion, and was evidently so considered by Medill himself. I have shown that it is utterly insufficient to justify his conduct in revoking these licenses;

and have also shown with equal clearness, I think, that the whole affair has been set on foot by Medill and Harvey to persecute Ewing, because, as De Baum says, he *had abused Medill!*

There are some other matters, chiefly of a *circumstantial* character, referred to in Medill's opinion, which it is perhaps necessary that I should notice—though these cut but a small figure in the case, since the leading facts are sufficiently answered and explained. They are *make-weights* to the opinion.

He says Ewing went up the river in company with Mr. Beach. What of this? Who denied it? Is there any unfair inference to be drawn from this fact? Suppose Ewing even knew at that time that the order for payments per capita had been issued; I have already shown that he had a clear and legal right to receive his money nationally. I have referred to the opinion of Gen. Cass on this subject and to this effect; and that the order was both wrong and unconstitutional, as it related to past contracts. But the order was not issued when Ewing and Beach went up the river, and, therefore, this fact can have nothing to do with the case.

He says that Harris went up the river at the same time and in the same steamboat with Ewing and Beach. The only evidence of this is Harvey's statement. But what if he did? I agree it would be important if Ewing had denied that he *knew* any such man—as Medill and Harvey both insinuate. But he did not make any such denial. Medill makes this cut quite a figure in his opinion; but he has, as I have already shown, falsified Ewing's statement in regard to Harris to give it this prominence. When Ewing's declaration is properly understood, it makes no sort of difference whether he went up the river with Harris or not.

But he speaks of "*misrepresentations* made to the Indians with reference to the purposes of the department," &c., [page 19.] What does he mean by this? There is not a particle of evidence going to show that any such "*misrepresentations*" were made by Ewing. But if there had been, is *that* sufficient cause for revoking a license? If so, what should be done with a Government officer for "*misrepresenting*" the *traders*? Does the rule work both ways?

The balance of Medill's report is composed of his *inferences* and "*natural presumptions*," and is a denunciation against *all* Indian traders. I need only remark in regard to it, that it shows what I have already stated, that he had *one* object to accomplish, and that was to *force* Ewing out of the country at any cost, merely because he *had abused him!* This is, evidently, the leading motive of his whole conduct.

Having occupied so great a space in noticing the opinions of Medill and Harvey, I am compelled to be more brief in my notice of the testimony filed by the Messrs. Ewings. It is not, indeed, necessary that I should be otherwise, for, in reading that testimony, you could not fail to have noticed the leading points of it.

William Phelps swears that De Baum admitted to him that he had sent the mail "*on a pleasure excursion*," &c., and that he also made other admissions, which show his statement to Harvey to be false and malicious. The deposition of Phelps—as the magistrate certifies—was read over to De Baum, and he did not deny it. Phelps and De Baum consulted about it, and "there appeared no other difference of opinion between them in relation to it" than as it regarded the days on which the main council was had, and it was altered accordingly. [See page 59.]

Isaac G. Baker swears, that De Baum heard, at the payment, that Beach had not received the instructions, and had ample opportunity to know what transpired there in regard to it. Also, that "some three or four days after the payment" De Baum "was importuning Mr. J. B. Sarpy to loan Messrs. Scott \$1,000" and that he professed to be *very much embarrassed*." And still further, that when he failed to get the money he declared, in a "*very boisterous manner*," that he "had been *prime mover* of the then late payment; that he had it *in his power to have quashed it at the time*;" and that "*if he should ultimately fail he would make a noise they (the traders) would regret*." Here De Baum's whole conduct is explained. He had made way with the mail, and when he found that the traders would not *pay him for his rascality*, he became "very much embarrassed"—sought to get \$1,000 from Sarpy, and threatened that he *would make a noise* that they would regret, if they did not give it to him.

It is worthy of consideration, in passing, that, while Medill and Harvey have, by implication and directly, attacked all the witnesses for the Ewings, they have permitted this witness to pass without their censure; except that he is represented as "one of the employees of P. Chouteau, jr., & Co." [Medill's opinion, p. 8.] With this Ewing has nothing to do; he is not in *his* employment; and that, at least saves him from the insinuations made against Harris. Medill dismisses his testimony by remarking, that his deposition is "dated more than three months after the annuity payment, &c." Well, what of this? It was dated at the time it was taken by Ewing, and not before. What figure the date of it can be made to cut in the estimation of any body but Mr. Medill, I am at a loss to see. But why does he not comment upon the testimony of this witness, as he has done upon that of the others? For the reason, beyond doubt, that it bears evidence of its truth on its face. And being true, it shows that De Baum's statement is false. If there were no other evidence in the case, this is enough to justify the view which I have taken of this whole case, and to condemn the act of revocation.

John B. Sarpy swears that De Baum told him he would "*manage*" the matter about the mail; that after the payment he tried to borrow one or two thousand dollars from him; that he "urged, insisted, coaxed, and finally threatened, and said that it was *alone* through his instrumentality that the national payment had been brought about, &c.;" and that if he could get \$1,000, he "would say nothing more about it." Also, that after De Baum had failed to get the money of him, he said he would go the Pottowatamie agency, and try and get \$1,000 of Ewing.

And also, that he saw De Baum after Ewing had refused to let him have the money, when he said "that he would make Ewing *feel him, or suffer for this.*" Medill insinuates the charge of falsehood against Sarpy, but Harvey, who lives in the same city with him, *dares* not do it. The fact is, Sarpy is a man of as high respectability as any body, not excepting Medill himself. But this insinuation of falsehood is fully answered by the corroborating statement of Baker, (*not denied*,) upon all the material matters relating to De Baum.

John Beach certifies, as a Government officer, that when he arrived at Westport he discovered, for the first time, that the mail had been given to De Baum; that "De Baum, passing through Westport the next day, and being accosted by the postmaster in the matter, *then learned that he was betrayed*; and overtaking me [him] at St. Louis, for the first time spoke to me [him] about it, ENDEAVORING TO EXPLAIN AND PALLIATE HIS CONDUCT." He also states that the explanation of De Baum convinced him "that he had been guilty of a *base breach of trust*, in which, finding himself detected, he was now [then] disposed to smooth over, as well as he could." Also, that, on the day of the council, De Baum called to see him, and they talked over the "existing matter" about the payment; he read him the speeches, &c., in which he plead to the Indians "the non-receipt of the instructions," and expressed his vexation at it; and that, notwithstanding he knew what was said, for several days afterwards, in regard to the instructions, "he studiously avoided any reference to the mail which had been sent by him."

Following this part of Beach's statement is a part which, singular enough, has escaped the scrutiny of both Medill and Harvey. It is this: He says that De Baum started from St. Louis with him when he went up with the money. That he had calculated upon him as one of his guards; but that "SUDDENLY, while travelling on the boat, he changed his mind," landed elsewhere, informing Beach that "business required it," and then came up to Westport by land. Now, what did he leave the boat for? This question seems never to have occurred to the mind of Medill or Harvey, or, if it did occur to them, they have studiously avoided it. The reason is plain. It presents *their* prosecuting witness in a light not favorable to their *predetermined* judgment. But how do they get rid of it? By the simplest process imaginable, and that is to attack Beach, *and make him out a rascal too!* Their *sagacity* is about equal to their fairness. I am not entering on Beach's defence, but, from what I believe of him, he may well defy their combined malice.

But he also states another important fact, not noticed by Medill or Harvey. It is this—that "*after the payment*" De Baum said to him, that if Ewing did not pay him certain money on account of the Scotts, he would give him "*some trouble, that he would revoke his license.*" This statement corroborates what both Sarpy and Baker have sworn to, and is important as showing De Baum's rascality.

I have already referred, partially, to the statement of William D. Harris. It is not sworn to, but I submit whether it is not entitled to as

much weight as De Baum's; and more too, as there is no evidence whatsoever against Harris, except what De Baum says. In his letter of 7th January, 1848, [p. 102,] he expresses his "astonishment at the hardness and barefaced falsity of the man." He denies and repels the charge of having received the mail, and again denounces it as a "wilful misrepresentation," and "wholly untrue." This he says in his letter to Ewing. In that addressed to Harvey, he again denies it in the strongest terms, and explains his visit to the Sac and Fox agency, as already noticed by me. He declares that he did not meet De Baum between Westport and the Sac and Fox agency; that he had no order, and that he *did not know Major Beach*. It is evident, from the character of these letters, that Harris has spoken the truth. He writes like a man who feels himself injured and wronged.

There is an additional statement of Beach, [p. 106.] In this he certifies to the correctness of his letter of 24th December, 1847, and expresses his conviction that De Baum suppressed the mail. He also says that he "never knew anything to justify the least suspicion that you [Ewing] directly or indirectly, by yourself or any in your employ, were concerned in the transaction." Who could know more than Beach of this matter? He had every opportunity of witnessing the conduct of all the parties; and his *opinion* is, therefore, entitled to consideration.

I file, herewith, several new depositions, which I propose briefly to notice, as they explain some matters which Medill seemed to think important. He says, [page 19,] Maj. Harvey states in his report of the 18th ult.—and this statement is no where *denied* or *discredited*—that Mr. G. W. Ewing went up the river last fall in company with Mr. Beach, when the latter was carrying the annuity money to the Sac and Fox agency; and Maj. Harvey also states *another fact*, well worth consideration in determining upon the justice of his accusation in the premises, *that the Mr. Harris, whom De Baum speaks of in his statement, went up the river at the same time, and in the VERY SAME steamboat, with Mr. Ewing and Mr. Beach!*" Now, I have yet to see the force of these remarks, so far as they apply to the fact of Ewing and Beach having gone up the river together, unless it be intended by them (as I suppose it was) to connect them together in the transaction, and to insinuate that they were both guilty; and that the whole plan was devised before they did go up the river. Such an inference is warranted by nothing in this case. It was the interest of Ewing to go to the payment, and what was there more natural than that he and Beach should have gone up the river together. Nobody ever denied it,—or ever thought of denying it—yet Medill makes this cut quite a figure in his report.

But Ewing *does* deny that Harris went up the river at the same time. The depositions of D. Finch and John Swartz prove this. [See exhibits A and B.] The former, who was the clerk of the boat, and kept the register at the time; swears that the name of Harris is not on the register, and that he saw no such man. The latter, who had a good opportunity of knowing, and who *knew Harris*, swears that he

was not there; that he did not go up the river at that time, and that he did not see him until about the first of November when they met him at Sugar creek. What, then, becomes of this miserable insinuation that Ewing took Harris up the river to make him the instrument of this wrong? It, of course, falls to the ground, and leaves the originators of it in the precise condition into which they had supposed they had plunged these parties. Harvey asserts positively that Harris did go up the river with Ewing, and Medill repeats it, making it one of the strong points of his argument. It is false—and the whole argument falls.

I file, also, the deposition of John Goodell, [see exhibit C,] whose statement, heretofore given, is relied on by both Medill and Harvey. This witness states, emphatically, that he knows nothing against Ewing, in connection with the payment; and that, if any inferences prejudicial to him were drawn from his former statement, it is wholly contrary to his wishes or intention. He has, himself, furnished a sufficient answer to everything that Medill and Harvey have attempted to deduce from what he has said.

The statement (not sworn to) of J. B. Scott, [see exhibit D,] is, in substance, to the same effect as that of Goodell. It is, certainly, entitled to as much weight as his former one, which was also not sworn to! He says that he did not intend to say anything against the Ewings, for he knew nothing, and that he has “always found them to be just, upright, and honorable men.” But he goes farther, and, from what he saw of the conduct of all the parties, feels himself authorized to express the opinion, “that the conduct of Maj. Harvey towards them, in revoking their Sac and Fox license, was *rash, oppressive and malignant.*” and “that in doing it, he was prompted by *personal and hostile* feelings towards them.” These conclusions no man can doubt, who will take the trouble to investigate this whole case.

I file, also, a number of letters, from distinguished gentlemen, showing that, previous to this occurrence, the Messrs. Ewings have borne as high character as any gentlemen in the country. These are from the Hon. H. L. Ellsworth, formerly Commissioner of Patents—Hon. E. M. Huntington, formerly Commissioner of the Land office, and now U. S. District Judge of Indiana—Hon. John Tipton, formerly U. S. Senator from Indiana—Hon. A. S. White, also, formerly U. S. Senator from the same State—A. C. Pepper, Esq., late Superintendent of Indian affairs, and this same Maj. Thos. H. Harvey. [See exhibits E, F, G, H, I, K and L.] Besides these, there is also a letter from Hon. T. Hartly Crawford, dated 28 June, 1841, [see exhibit M,] showing that he had appointed an Indian agent upon the recommendation of G. W. Ewing; and others from Hon. C. A. Harris, late commissioner, [see exhibits N and O,] showing that the Government had found it necessary to employ the services of Col. Ewing, in removing the Pottawatamies from Indiana, and tendering him the thanks of the Department. These attestations of character could be swelled to

any possible extent, by certificates from those sections of the country in which the Messrs. Ewings reside; but they are deemed to be sufficient for any reasonable purpose. Indeed, I affirm, most fearlessly, that they enjoy a reputation for integrity equal to that of any gentleman—not excepting Messrs. Harvey and Medill. It is hard to make an impartial man believe that gentlemen, thus known and esteemed, would sport away their reputation by such a transaction as this. Such a conclusion requires more than an ordinary share of credulity.

But I go farther than this, and show their *present* standing amongst those who have every opportunity of knowing—choosing to confine these proofs to the *officers of the Government*. Thomas H. Mosely, Esq., the present Indian sub-agent, at the Wyandott sub-agency, states, that they are “*gentlemen, and highly worthy and respectable citizens*”—that “*as honorable merchants and business men, they are much esteemed.*” From his own knowledge of them, he speaks of their “*high personal worth,*” and says that he would not hesitate to license them to trade with the Indians. [See exhibit P.]

Col. D. D. Mitchell, the superintendent of Indian affairs at St. Louis, speaks of both the Messrs. Ewings “*knowingly,*” and in the highest terms. He has known them for “*ten or twelve years—both in the Indian country and elsewhere,*” and has “*always regarded them as intelligent, enterprising, high-toned gentlemen, in all their dealings with men—whether white or red*”—and expresses the hope that they may succeed in setting aside this order of revocation. See exhibits Q and X.]

With testimony such as this, of the character of the Messrs. Ewings, is it to be tolerated for a moment, in a country where the meanest criminal has a right to confront his accusers face to face, that their reputation is to be wantonly assailed by such miserable and malignant insinuations as those made by Medill and Harvey?—insinuations which originated in personal hatred, and which they have attempted to support by a mode of reasoning so *puerile*, that it would disgrace a school-boy.

I have but a few words more to say on this subject, and those in relation to the character of two gentlemen, whose depositions are filed by the Messrs. Ewings, and who have been assailed by Harvey and Medill—I mean Messrs. J. B. Sarpy and William Phelps.

In regard to Mr. Sarpy, who was born and has been raised at St. Louis, Hon. Thomas H. Benton and Hon. J. B. Bowlin furnish the highest testimonials. [See exhibits R and S.] Col. Benton says, “*that he is one of our most respectable citizens;*” and Judge Bowlin says, “*that for all the characteristics that distinguish the gentleman, no man in his community stands higher*”—and that “*his reputation stands beyond reproach.*”

In relation to Mr. Phelps, there is abundant testimony of equally high standing and character. The Hon. James Shields says, that he will “*vouch for his integrity, honesty, and respectability.*” The Hon. E. D. Baker says, “*he is a man upon whose deposition every reliance*

can be placed, and who stands as a man of *unquestioned veracity*." The Hon. W. A. Richardson says, "he is a gentleman of credit and veracity." He is also fully endorsed by the Hon. R. M. Young and the Hon. S. A. Douglas. [See exhibits T, U, V, and W.]

Now, I submit whether it is to be tolerated that gentlemen of irreproachable character are to be assailed by Government officers, as these gentlemen have been by Medill and Harvey? If they are, no man is safe; and the purest men in the country may be defamed without ever suspecting that the defamation is placed amongst the records of the Government. The present affords an opportunity for a change in this nefarious and wholesale system of slander; and with the most entire confidence that you will give this case an impartial consideration, and can never consent to be made the instruments of oppression and injustice, it is submitted to you without additional comment.

R. W. THOMPSON,

Attorney for W. G. and G. W. Ewing.

WASHINGTON CITY, Dec. 6, 1849.

NOTE.—The testimony embraced in exhibits Y, Z, AA, BB, CC, and DD, were before Col. Medill when the case was decided by him, but are reprinted now for the sake of reference.

A.

STATE OF MISSOURI, *county of St. Louis, ss.*

On this 27th day of September, eighteen hundred and forty-nine, personally appeared before me, the undersigned, "the law commissioner of St. Louis county," in and for said county and State, Daniel Finch, known to me to be a gentleman of truth and veracity, and a reputable citizen of the city of St. Louis, who being by me first duly sworn, on his oath deposes and says, that he was clerk on board the steamboat "Martha," engaged in the Missouri river trade in the year 1847, running from St. Louis to Weston and back, and stopping at most of the intermediate places. That in such capacity as clerk this deponent kept the books and register on said steamboat. The original register kept of all the trips during the summer of 1847 is now in this deponent's possession, and referred to when making this affidavit. That on making trip number eleven (11) with said steamer, from St. Louis to Weston, and on leaving the former city on the third day of September of that year, (1847,) said original register, now here referred to, shows that some 39 or 40 persons entered at St. Louis, and went up the Missouri as cabin passengers, destined for the different points and landings. That the cabin passage then charged to Weston and Kansas city landings was eight dollars per person. That among the other cabin passengers was George W. Ewing, of the city of St. Louis, (alias "Col.

Ewing, and man, \$12,) so entered on the register. This "man" was a German, the same whose name is signed to the annexed statement, as this deponent believes—John Swartz. Col. Ewing paid for himself and this man \$12 for the passage up to Kansas landing—the fare for the man Shwartz being half-price, as he did not take a cabin passage, but ate at the second table, and slept on his own blankets.

This deponent further says that William G. Ewing, (alias "Judge Ewing," brother of Geo. W. Ewing,) S. S. Phelps, Mr. Lattimore, Mr. La Salle, Major Hewet, Major Beach, Mr. Stockwell, Major Mitchell, Mr. De Baum, and others, were also passengers, and went up on the Martha at the same time, viz., left St. Louis 3d September, 1847. That most of the aforementioned passengers debarked at Kansas landing, except Mr. De Baum, who left the boat at Wellington, Lafayette county. That the above named Majors Hewitt, Beach, and Mitchell, were then Indian agents and sub-agents, and had with them on board money to pay the Indian annuities of that year, as this deponent was told and believes.

That no man by the name of "Wm. Harris," or Wm. D. Harris, was on board, or went up on the Martha on that trip. That no such name is entered on the register aforesaid, and this deponent knows of no man by that name having gone up then on said steamer. That there was no other man or person along with, or particularly in company with, Col. G. W. Ewing, except his man before described, Schwartz, and his brother, Judge Ewing. This deponent has known the Messrs. Ewing for several years. And further deponent saith not.

D. FINCH.

Sworn to and subscribed before me, this 27th day of September, 1849. Witness my hand and official seal.

[SEAL.]

JOHN H. WATSON,

Law Commissioner of St. Louis co.
Per PHILIP C. MAURO, *Deputy.*

B.

STATE OF MISSOURI, *county of St. Louis, ss.*

On this twenty-seventh day of September, eighteen hundred and forty-nine, personally appeared before me, the undersigned, "the law commissioner of St. Louis county," in and for said county and State, John Schwartz, of lawful age, and a reputable citizen of St. Louis, who being by me first duly sworn, on his oath deposes and says, that he is the "man" named in the foregoing affidavit of Daniel Finch, as having been a passenger on the steamboat "Martha," in 1847. That he was in the employ of Messrs. W. G. and G. W. Ewing from the year 1845 to January, 1849. That on the 3d day of September, 1847, this deponent went up the Missouri river with Col. Geo. W. Ewing, on

board the steamer Martha. That he did not go as a cabin passenger, but went (as he then understood) for half-price, because he took his meals at the second table, and slept on his own blankets, and did not occupy a state room. That Col. Ewing and deponent went up on the Martha as far as Kansas landing. That Judge Ewing, the brother of Col. Ewing, was also on board said steamer; and being then on his way to Council Bluffs, as this deponent understood, continued on his way as far as Weston on said boat.

This deponent accompanied Col. Ewing (to aid and assist him, said Ewing being then in infirm health,) from the Kansas landing to the Sac and Fox agency, where the Messrs. Ewing had then a very large trading establishment. From there this deponent (after the Sac and Fox payment was over, say about the 1st October, 1847) went over to the Pottawatamie payment ground, where he again joined Col. Ewing, who had preceded him. From there this deponent accompanied said Ewing, on or about the 5th of October, 1847, to the Osage Indian sub-agency, on the Neosho river, a distance of about 100 miles southwest from the aforesaid Pottawatamie payment ground. That at Neosho said George W. Ewing took sick, and was dangerously ill for some time, during which time this deponent remained with and took care of him. That about the last of October Col. Ewing had so far recovered as to be able to ride, when he and this deponent returned towards the State line of Missouri. They reached Sugar creek on or about the 1st November; and there they met, and this deponent there saw, for the first time since the July previous, Mr. William D. Harris. The next day this deponent left Sugar creek with Col. Ewing, and accompanied him about twenty-five miles to the Miami payment ground, where Major Harvey had just finished paying those Indians. Deponent left Col. Ewing there, and returned to the city of St. Louis.

This deponent knew the said W. D. Harris, who had been for many years a merchant in Logansport, in the State of Indiana, and who came to St. Louis in the spring of 1847, and remained until the following July, (1847,) when he obtained from Major Harvey, then superintendent of Indian affairs, a license, (in connexion with one Henry C. Rhodes,) to trade with the Winnebago Indians up near Fort Atkinson, in Iowa, as this deponent learned from said Harris. Said Harris left St. Louis in July, and went up the Mississippi river, and had not returned (as this deponent thinks) on the 3d of September following, when he (this deponent) and Col. Ewing and Judge Ewing went up the Missouri river on the steamboat Martha. This deponent knew said Harris well, and knows that he was *not* on board said steamboat Martha when the Messrs. Ewing and deponent went up to Kansas landing on board of her as aforesaid. This deponent recollects Daniel Finch (now present) as the clerk on said boat on the trip before referred to. This deponent had never before been up the Missouri river, or in the western Indian country, and kept a memorandum book on said trip, to which he now refers for dates and other particulars here stated. Deponent is a German, but speaks and understands the English language,

having been many years in the United States. And further deponent saith not.

JOHN SWARTZ.

Sworn to and subscribed before me, this 27th day of September, 1849.

[SEAL.] Witness my hand and official seal.

JOHN H. WATSON,

Law Commissioner of St. Louis co.
Per PHILIP C. MAURO, *Deputy.*

C.

This may certify, that I have known Messrs. W. G. & G. W. Ewing ever since the year 1841 as large and extensive merchants or traders among the Sac and Fox nation of Indians, with whom I have resided for a great many years. I was once in these gentlemen's employment as an interpreter and assistant in their Indian trade with said Indians. They kept very large and most excellent stocks of goods, and did much trade and business with said Indians.

I never saw or knew of any thing wrong or improper on the part of either of those gentlemen, and I believe them to be highly respectable and worthy citizens.

I was present at the payment made to the Sacs and Foxes of their annuities, in the year 1837, when the Messrs. Ewing and other traders collected their large national debts. I saw nothing unfair or improper on the part of Colonel George W. Ewing. On that occasion he seemed to do no more than *all* the other traders did, and that was to try and get their debts, or as much paid on them as they could. All the other traders did the same; and this was their custom at former payments, and has been at all of the payments since that time.

Judge Ewing was not present at that payment in 1847. I was requested by Major Thomas H. Harvey, (the superintendent of Indian affairs at Osage River sub-agency,) on the 29th January, 1848, to make a statement relative to the way the payment had been made to the Sacs and Foxes the fall before, by Major Beach, who was then their agent, and did so; but neither said, or intended to say, any thing against the Messrs. Ewing, nor either of them—for, in fact, I knew nothing against them, as before stated; they only did like the other traders, and, as has always been usual in that trade, each one tries to get all he can on his claims. What I said, as having heard some of the Indians say about the national obligation which the Messrs. Ewing held against the Indians, and collected at that payment, I did not state as of my own personal knowledge; I merely gave it as Indian say-so; it may or it may not have been true. I have frequently heard those Indians speak thus of debts and claims, when I knew at the same time that they did owe the debts. The Messrs. Ewing, I presume, never made any of

those debts themselves, for they were hardly ever at their trading-house, except to visit it about the time of the payments, and get the returns and go away with them. I knew their principal clerk, Alexander Street, for many years; and he was always considered, by the Indians and white people, a very honorable, honest, and worthy man. In fact, I have no doubt of his being such. I did not volunteer to make the statement referred to; it was sought and warily solicited by Major Harvey, who I could not but believe, from his manner and general remarks, was very hostile towards the Messrs. Ewing.

For my own part, and I resided among the Sacs and Foxes all the while, and speak and understand their language well, I could never see or understand why the Messrs. Ewing should have been refused *their* license and forbid to trade there, and subjected to such great loss and inconvenience, any more than Messrs. W. A. & J. B. Scott; Messrs. Kenzie & Whistler; or Messrs. P. Chouteau, jr., & Co.; as they were all trading there at the same time, and I thought *all* were alike active and anxious to collect their claims, and sell all the goods and get all the money they could. I did not see that the Messrs. Ewing did any thing more than those other traders did, except that their claims were larger, and they received more money than either of the other traders did. I saw no violence used or attempted, on that or any other occasion, by Colonel Ewing; and, so far as I saw, his conduct was dignified and gentlemanly. If any thing contained in my statement before referred to has been construed or used to the prejudice of the Messrs. Ewing, I regret it, and did not design or intend it, because I know nothing to their prejudice.

Up to the year 1847, it had always been the custom of the Sacs and Foxes to contract yearly large national debts for their supplies, which they would get on credit from some of their licensed traders, and which they would pay, in whole or in part, out of their national annuity at the payment. Since 1847 the custom is changed, and they now receive their annuities by heads of families. They still go much in debt to their traders, though the debts are not now national as formerly. They are made mostly individually; yet I don't know but that, collectively, they go as much in debt now as they did prior to 1847.

I do not consider the trade a very profitable one. I am now employed as United States interpreter for said Indians, by Col. Charles N. Handy, their agent.

Westport, Jackson county, in the State of Missouri, this 20th day of October, A. D. 1849.

JOHN GOODELL.

STATE OF MISSOURI, *Jackson county*, ss:

Before me, the undersigned, James B. Davenport, an acting justice of the peace in and for said county, personally came John Goodell, of lawful age, who being by me duly sworn, upon his oath deposeth and says, that all the matters and things set forth and stated in the foregoing written statement, dated "Westport, Jackson county, in the State of Missouri, this 20th day of October, A. D. 1849," and to which he has subscribed his

name, are true, and that he has made the said statement of his own free will and accord, without any undue persuasion, or any circumvention or reward on the part of the said W. G. & G. W. Ewing, or either of them, or of any other person or persons whomsoever; but does it *because* it is true, and as an act of justice to the Messrs. Ewing; and further this deponent saith not.

JNO. GOODELL.

Sworn to and subscribed before me, this 20th day of October, A. D. 1849.

JAMES B. DAVENPORT,
*Justice of the peace of Kansas township,
county of Jackson, State of Missouri.*

STATE OF MISSOURI, *Jackson county, ss:*

I hereby certify, that James B. Davenport, esq., before whom the foregoing affidavit was made, and who has thereunto subscribed his name, was, at the time of so doing, a justice of the peace in and for said county, duly commissioned and sworn, and that his signature thereto is genuine.

In testimony whereof I have hereunto set my hand and affixed my seal of office as clerk of the circuit court of said county, at [L. s.] office in the city of Independence, this 22d day of October, A. D. 1849.

SAMUEL D. LUCAS, *Clerk.*

D.

This may certify, that the statement I made to Thomas H. Harvey, the then superintendent of Indian affairs, some time in the month of ———, A. D. 1848, relative to the manner in which the Sac and Fox annuity payment had been made the fall previous, was not designed or intended in any way or manner to implicate or prejudice Messrs. W. G. & G. W. Ewing, or either of them, in their rights, for I knew nothing improper of them. I have known both of these gentlemen for several years, and have transacted much business with them.

I have always found them to be just, upright, and honorable men, and as such I believe they are esteemed by all who know them. As merchants and business men they rank second to none others in the country. They always keep large stocks of excellent Indian goods on hand, and they have done much business of this kind.

I was present, as stated in my former statement, at the payment made to the Sacs and Foxes in September, 1847, by Major Beach, and saw Colonel Ewing receive the money which the Sacs then paid them, viz., \$21,600. I saw nothing, nor heard nothing, improper or rash on the part of Colonel Ewing, (his brother, Judge Ewing, was not there,) and the Colonel did no more than myself and other traders did. He tried to

collect all he could, and so did I; so did all the traders. This is the usage and custom at all the Indian payments I have ever witnessed.

I know of nothing against the Messrs. Ewing as above stated. I neither said nor intended to say any thing to their prejudice. As gentlemen and good citizens I respect them very highly.

I give it as my opinion that the conduct of Major Harvey towards them, in revoking their Sac and Fox license, was rash, oppressive, and malignant; and think that, in doing it, he was prompted by personal and hostile feelings towards them.

It always seemed to me to be a most unjustifiable act, and I regret to see any good citizen persecuted.

It must have been a very great injury to the Messrs. Ewings, and caused them no doubt to lose their Indian credits, which they then had out among the Sacs and Foxes. I make this statement as an act of justice to the Messrs. Ewings, who, I think, were oppressed and wronged by the late superintendent, and without any good or sufficient cause. All of which I am willing, if necessary, to verify to. Kansas city, Missouri, this 29th day of October, A. D. 1849.

J. B. SCOTT.

W. S. CHICK.

E.

WASHINGTON CITY, *March 4, 1842.*

GENTLEMEN: Permit me to introduce Messrs. W. G. & G. W. Ewing, gentlemen of high respectability and among the largest and most enterprising merchants of the west. Their residence is in Indiana, and their course of trade has for a long time been with the Indian tribes, particularly the Miamies and Pottawatamies. Their sales have been great, as will appear from the fact that there is now awarded them over \$190,000, which only waits the appropriation which is reported. They have still further claims to a large amount on Government. These gentlemen have hitherto made their purchases in New York, but think they can do better in Boston. They will, therefore, visit your city to examine the quality of goods, and explain more fully their object and wishes.

Yours, very respectfully,

(Signed,)

H. L. ELLSWORTH.

Messrs. A. & T. LAWRENCE, *Boston, Mass.*

A true copy.

C. WELLS.

F.

WASHINGTON, *March 4, 1842.*

GENTLEMEN: Presuming upon a slight personal acquaintance formed with one of you, (J. Lawrence, esq.,) at Lowell, in the winter of 1840,

I take the liberty of introducing to you General Geo. W. Ewing and his brother, W. G. Ewing, esq., of Indiana. These gentlemen have, for many years, been extensively engaged in trade, and have purchased large amounts of Indian goods in the New York market. They have always been regarded as men of high business character, and from my personal knowledge have, at this time, claims against the Government of the U. S., allowed by the U. S. commissioners, to the amount of nearly two hundred thousand dollars, which will, I presume, be paid as soon as the appropriation bill is passed. My object is not, however, to give you any assurance of their ability to meet any engagements they may enter into—for among those who know them such an assurance is unnecessary—but to introduce them to you as business men of high character and unquestioned ability. They are inclined to visit Boston, with a view, perhaps, to make some purchases, and I am sure it will give you pleasure to extend to them such attentions as will be most acceptable to them and aid them in their views. By so doing, you will much oblige an Indianian, who is a temporary resident here, and who is your friend.

E. M. HUNTINGDON.

Messrs. A. & J. LAWRENCE, *Boston, Mass.*

A true copy.

C. WELLS.

[Copy.]

G.

FALLS OF THE WABASH, *25th September, 1838.*

SIR: With this I have the honor to transmit a letter from Messrs. Ewing, Walker, & Co., and Allen Hamilton & Co., upon the subject of the balances due them from the Pottawatamy Indians; and it is but an act of justice for me to join them in the request that the Department will retain the balance due to the claimants from the Indian annuity, and pay it to the claimants in New York. Few men have been more zealous, *none more efficient* than the *members* of these firms *in effecting the organization* of the late emigration of the Pottawatamies, especially Messrs. G. W. Ewing and C. Faber; to them the Government is much indebted for faithful and efficient aid, both in personal services day and night, as well as in *means* to defray the expenses of putting the party in motion from Twin Lake.

With great respect, your most obedient servant,

(Signed)

JOHN TIPTON.

Hon. C. A. HARRIS, *Commissioner of Indian affairs.*

[Copy.]

H.

FALLS OF THE WABASH, *27th September, 1838.*

SIR: My note of the 25th inst. informed you of my intention to visit the camp near Logansport, in which Judge Polke and myself had left

21 Indians, mostly sick, on the 10th instant. On visiting them, Capt. Hull and Dr. Little informed me that one died soon after our departure, and that the number had been increased to 32, by the arrival here of part of the Indians which we left sick at Chippewa on the 6th instant, with others coming on to the camp to follow their friends west. Col Pepper was engaged with the Miamies at the forks of the Wabash; no one here to direct what should be done, nor was there one dollar to defray expenses. Mr. Tilley was here, and I requested him to visit Col. Pepper's camp, and wrote to Col. P. to come here; I furnished my own money to defray expenses. Col. P. arrived yesterday, and this morning the Indians set out west; Col. P. will report the details. My letter of the 27th of last month informed you that Col. G. W. Ewing had agreed to aid in getting up an emigration of the Pottawatamies from this State. It is due to truth and to Col. E. that I should inform you, that no man could have been more faithful nor more efficient; he exerted himself day and night until the party left this place; he used his own money to defray expenses, and he done more than any other could have done. He brought in more than one party of Indians that, without him, would not have went west at this time. To him I feel much indebted for the complete success that crowned our united effort in this delicate matter.

I have been one month employed in this business, and can only hope that my motives may be properly understood by every one.

Your obedient servant,
JOHN TIPTON.

(Signed)

Hon. C. A. HARRIS.

I.

SENATE CHAMBER,
Washington, March 8, 1842.

SIR: Allow me to introduce to you my countrymen and friends, Messrs. W. G. & G. W. Ewing, of Fort Wayne and Peru, Ind.

These gentlemen, by a successful and talented mercantile career, are now among the most affluent citizens of the West, and, what is worth more to a generous mind, have established a reputation co-extensive with our great valleys. Their pursuits have been principally in the fur and Indian trade. They visit Boston now for the first time, in connexion with their business, and will requite, by a proper appreciation, any kindness you may show in introducing them to your city. The Messrs. E. have each held seats in the Senate of my State; and I shall feel myself personally obliged by any courtesy and attention they may receive from yourself or any of my friends in Boston.

I am, with great respect, yours, &c.

ALB. S. WHITE.

Hon. ABBOTT LAWRENCE.

A true copy.

C. WELLS.

K.

FORKS WABASH, *Sept. 18, 1838.*

SIR: I have the honor to state that most of the citizens of this country, holding claims against the Pottawatamies, exerted their influence in aid of the removal of the tribe to the country assigned them west of the Mississippi. Col. G. W. Ewing and Cyrus Taber, esq., two of the largest claimants, were active, zealous, and energetic, in their personal efforts during the whole time the Indians were being collected and prepared for the commencement of their journey west; and both accompanied the emigrants several days after they started.

All the chiefs on this side of the Mississippi, previous to their departure with the emigration, signed in my presence a petition, requesting your department to pay at Washington city the claims due from the tribe as adjusted in conformity to the decision of the Honorable Secretary of War and the report of John W. Edmonds, esq.

A compliance with the request contained in that petition, I am fully persuaded, will be more satisfactory to the Indians and all concerned, than any other plan which can be adopted to carry into effect the honest intentions of the Pottawatamies, as expressed at the time of the negotiation of the several treaties with them.

I am, sir, very respectfully, your obedient servant,

A. C. PEPPER, *Superintendent.*

Hon. C. A. HARRIS,

Com'r of Indian Affairs, Washington city.

L.

OFFICE SUPERINTENDANT INDIAN AFFAIRS,
St. Louis, Nov. 17, 1845.

DEAR SIR: Permit me to introduce to you Col. Geo. W. Ewing, of Fort Wayne, Indiana, who intends to become a citizen of Missouri in the spring.

Col. E. is a gentleman of high respectability and intelligence, and has been long engaged in the Indian trade. Any attention you may extend to the Col. will be placing me under renewed obligations.

I am, sir, most respectfully, your obedient servant,

(Signed)

THOS. H. HARVEY.

To the Hon. DAVID R. ATCHISON, *Washington city.*

M.

WAR DEPARTMENT,
Office Indian affairs, 28th June, 1841.

SIR: Your letter of the 17th instant, to the Secretary of War, has been referred to this office.

I have to inform you that, in the treaty of the 28th November, 1840, with the Miamies of Indiana, ratified 25th February last, it is provided in the 3d article thereof, that the "United States shall appoint a commissioner, or commissioners, who shall be authorized to investigate all claims against any and every member of the tribe which have accrued since the 6th day of November 1838, or which may accrue before the date of the ratification of this treaty, without regard to distinction of blood in the claimant or claimants." I have to inform you, also, that as commissioners to investigate the claims, as provided in the article, and amendment of the Senate, Messrs. Othniel L. Clark, and Lot Bloomfield, of Indiana, were appointed by the President on the 21st instant.

In place of Gen. Samuel Milroy, Mr. Allen Hamilton, recommended by you to the Department, has been appointed as sub-agent to the Miamies. Acting under this appointment, Mr. H. will afford the advantage of his experience and judgment to the commissioners in bringing their business to a successful termination, and, in the mean while, be preparing the Miamies for their removal to the home assigned them west, which it is hoped his influence with them may accomplish.

Very respectfully, your most obedient servant,

T. HARTLEY CRAWFORD.

COL. G. W. EWING, now in *Washington, D. C.*

N.

WAR DEPARTMENT,
Office Indian affairs, September 17, 1838.

COL. GEO. W. EWING, *L'gansport, Indiana :*

SIR: I have had the honor to receive your letters of the 2d and 6th instant, communicating very gratifying intelligence relative to the emigration of the Pottawatamies.

This Department duly appreciates your exertions in this business, and I desire that you will, through me, accept its thanks for the zeal and ability with which you have co-operated in these transactions. Any reasonable and proper expenses which you have incurred, and within the province of this office to allow, will be remunerated to you; but a definitive decision must be postponed until they shall be exhibited.

In relation to your proposal to take charge of the emigration next spring, of the remnant of the Pottawatamies, I am not now prepared to give you a decisive answer. The subject will be duly considered, and you shall be seasonably informed of the determination of the Department.

Very respectfully, your most obedient servant,

C. A. HARRIS, *Commissioner.*

O.

WAR DEPARTMENT,
Office Indian affairs, August 7, 1838.

SIR: It is exceedingly desirable that the removal of the Pottawatomies from Indiana should be effected this season. Your long intercourse with them has given you an influence, of which the Department is desirous to avail itself in accomplishing this object. The general superintendence of the operations has been, as you know, intrusted to Colonel Pepper, and he will continue to conduct them under the direction of this office. There is, therefore, no particular post, or class of duties, that can be assigned to you. But if you will contribute your efforts in aid of those of the superintendent, and give him the benefit of the suggestions that occur to you, with the purpose and desire to insure eventual success, a liberal compensation will be made to you.

Very respectfully, your most obedient servant,

C. A. HARRIS, *Com'r.*

Colonel G. W. EWING, *Logansport, Indiana.*

Col. G. W. Ewing accepted the within appointment; when tendered to him he immediately entered the public service, collecting the Pottawatomie Indians, and preparing them for removing west. He exerted himself both day and night; employed his own interpreters, defraying expenses with his private funds. His exertion contributed much to the successful issue of the effort to organize the party for emigration.

JOHN TIPTON.

November 13, 1838.

I concur in the above statement.

A. C. PEPPER, *Superintendent.*

November 13, 1838.

P.

WYANDOTT SUB-AGENCY,
October 26, 1849.

SIR: I beg leave to state that I am personally acquainted with Messrs. W. G. and G. W. Ewing, who are extensive and enterprising merchants of Saint Louis, Mo. They have at present a large trading depôt at Westport, Mo., near to my sub-agency. I have transacted much business with them, and from my own personal knowledge of them, and of their general reputation here, as well elsewhere, I take pleasure in recommending them to you as gentlemen and highly worthy and respectable citizens.

Their trade has been and still is very extensive; they keep a large supply, which no other house does, of most excellent Indian goods, here on the western frontier; and as honorable merchants and business

men, are much esteemed—none more so—and I take pleasure in bearing testimony of the fact.

They complain very much of the vindictiveness and oppression of Major Thos. H. Harvey, late superintendent Indian affairs at Saint Louis, for having revoked their license to trade with the Sac and Fox Indians in November, 1847.

From my own knowledge of these gentlemen, and from their general character and known responsibility and capacity as western business men—for my remarks of those gentlemen are based upon my own knowledge of their high personal worth, as such—I would not hesitate to license them to trade with Indians, as readily as I would any other gentlemen; and I beg leave to say, without being considered either arrogant or presumptuous, that if injustice has been done them by the late superintendent Indian affairs, at Saint Louis, I most respectfully recommend that suitable and satisfactory restitution may be made them, and their rights and privileges, as American citizens, restored to them.

I apprehend that this is not the only instance of official malversation and oppression, or of party proscription, to which your attention will likely be called.

The citizens now look with confidence to our present patriotic Chief Magistrate for a restoration of their rights, and for redress of their grievances they have suffered at the hands of the late dominant party. As a friend and supporter of the present administration, I fondly hope to see justice promptly awarded to every good citizen. I feel as I know it will be done.

As I am a stranger to you, and this not being as official, permit me to refer you to letters on file in the chief clerk's office for the Secretary of the Interior, from several gentlemen, particularly two from gentlemen of my native State, and yours also, Kentucky; one from Governor Crittenden, the other from the Hon. Henry Clay.

I have the honor to be, very respectfully, your obedient servant,

THOMAS MOSELEY, Jr.

Indian Sub-agent.

Hon. ORLANDO BROWN, *Com'r. Indian affairs.*

Q.

ST. LOUIS, Nov. 13, 1849.

MY DEAR SIR: Your letter of the 11th inst. has been received, and it affords me much pleasure to be able to answer it in a way which I hope will be satisfactory to yourself and brother.

I understand it is your intention to take an appeal from the proceedings of Medill and Harvey, in their official capacities, which resulted in the revocation of your license as Indian traders. I know but little of the cause or causes of the controversy which formerly existed between you and the late officers of the Indian department, and which

resulted so unfortunately for you; but, so far as your characters and standing as honorable men are concerned, I can speak *knowingly*.

I have had the pleasure of knowing you for the last 10 or 12 years, both in the Indian country and elsewhere. I have always regarded you as intelligent, enterprising, high-toned gentlemen in all your dealings with men, whether *white* or *red*. I would be much gratified to hear of your entire success.

Respectfully, your friend, &c.,

D. D. MITCHELL.

G. W. EWING, Esq.

R.

C STREET, *Dec. 7th*, 1849.

Upon the request of Mr. Ewing I have to say, that I have been personally acquainted with Mr. Jno. B. Sarpy, of St. Louis, for many years, and that he is one of our most respectable citizens, and a member of the large and old firm of Chouteau & Co.

THOMAS H. BENTON.

S.

WASHINGTON CITY, *Dec. 5th*, 1849.

SIR: In reply to your interrogatory as to the character and standing of John B. Sarpy, of St. Louis, I have only to say, that I have known Mr. Sarpy for upwards of fifteen years, living his neighbor, and can say with pleasure, that for all the characteristics that distinguish the gentleman, that no man in his community stands higher. It is certainly unnecessary to say more, as his reputation stands beyond reproach.

Most respectfully, your obedient servant,

JAS. B. BOWLIN.

GEO. W. EWING.

T.

WASHINGTON, *December 6th*, 1849.

DEAR SIR: It gives me great pleasure to state, in reply to your request, that I am well acquainted with Capt. William Phelps, of Lewiston, Fulton county, Ills., and with his standing and character as a man and a citizen, and can vouch for his integrity, honesty and respectability.

I have the honor to be, your friend and obedient servant,

JAS. SHIELDS.

HON. GEORGE W. EWING, *Washington*.

U.

WASHINGTON, *Dec. 6th*, 1849.

DEAR SIR: I know Capt. Wm. Phelps, of Fulton county, Ill., well. He is a man upon whose deposition every reliance can be placed, and who stands as a man of unquestioned veracity.

Very respectfully, your obedient servant,

E. D. BAKER.

Hon. G. W. EWING, *Washington*.

V.

WASHINGTON CITY, *December 6*, 1849.

DEAR SIR: In reply to your inquiries, I say that I have known Capt. William Phelps, of Fulton county, Illinois, for several years. He is a gentleman of credit and veracity.

I am, truly yours, &c.,

W. A. RICHARDSON.

G. W. EWING, esq., *Washington city*.

P. S. Mr. Phelps resides in my district.

W. A. R.

W.

WASHINGTON CITY, *December 10*, 1849.

DEAR SIR: Yours of December 7th was duly received. In reply to which I take pleasure in stating that I am well acquainted with Captain William Phelps, of Lewistown, Fulton county, Illinois, having known him and all his father's family for many years. He was some years ago, when I first knew him, an Indian trader, but he subsequently married, and returned and settled permanently in Lewistown, the late residence of his father. The whole family are highly respectable, and very independent in their circumstances as to property. I have no hesitation in saying, that in my judgment he is a man of unquestionable truth and veracity. If you find it necessary to use this letter, you are at liberty to do so.

I am, very respectfully, &c.,

RICHARD M. YOUNG.

GEORGE W. EWING, esq., *Washington city*.

I have known Captain William Phelps for many years, and concur with Judge Young in the above letter.

S. A. DOUGLAS.

SENATE CHAMBER, *Dec. 12th*, 1849.

X.

WASHINGTON, *March 8th*, 1849.

SIR: I take pleasure in introducing to you my friend G. W. Ewing, esq., of Missouri. Mr. E. has been for many years one of our most enterprising and extensive Indian traders. He is a gentleman of high character and great moral integrity. He wishes to see you for a moment on business connected with your Department.

I have the honor to be, respectfully, your obedient servant,

D. D. MITCHELL.

Hon. T. EWING.

 Y.
STATE OF MISSOURI, *county of St. Louis*, ss.

This day personally appeared before the undersigned, George A. Hyde, both a justice of the peace and notary public, within and for the county aforesaid, duly commissioned and qualified, and acting in both said capacities and offices, the deponent, William Phelps, of lawful age, to wit, of the age of thirty-eight years; who being first by me duly sworn on his oath says, that his place of residence is at present at Lewistown, in the county of Fulton, in the State of Illinois. This deponent further says that, for many years previous to this time, he had been engaged in the Sac and Fox Indian trade, in connexion with his brother, S. S. Phelps, but had entirely withdrawn from the outfit last fall, to wit, 1846. That his said brother was still interested with Messrs. P. Chouteau, jr., & Co., in their Sac and Fox trade, before referred to; and that his brother, being in very poor health, had written to this deponent to go up, if convenient, to said outfit and assist him at the payment of the Indian annuities. Accordingly this deponent, upon the receipt of his brother's letter, left Lewistown, his place of residence, in the State of Illinois, and, travelling across the country by land, arrived at Kansas, in Jackson county, Missouri, on or about the 13th day of last September. There this deponent met with John B. Sarpy, esq., of the city of St. Louis, and from there they travelled together to the trading-house of Messrs. P. Chouteau, jr., & Co., which is situated near the Sac and Fox agency, some 65 miles southwest from the town of Westport, Missouri.

Whilst at Westport, and previous to setting out for the Sac and Fox country, (which deponent thinks was about the 13th or 14th of September, as before stated,) George De Baum, the gentleman now here present, and known as the clerk or agent of the late firm of Messrs. Powell & Wilson, of the city of St. Louis, came to this deponent and asked him if he (deponent) would not go with him, the said De Baum, back or down to Independence, which is some 12 or 15 miles eastward from Westport, to get the mail. Deponent declined doing so, stating that he had made his arrangements to go on out to the Sac and Fox country

that morning, in company with Mr. Sarpy, who was going out in a small carriage.

The said De Baum then stated to this deponent that he had resolved to go back to Independence and get the mail, (meaning, as deponent understood it, the letters and papers destined for the Sacand Fox agency,) and keep it out of the way, as deponent inferred from his remarks and manner at the time. This deponent was not engaged at that time in said Sac and Fox trade, nor had not been since the previous fall, as before stated. No further conversation took place at that time between said De Baum and this deponent. Deponent left Westport soon after this, on the same day, in company with Mr. Sarpy, and proceeded on to the trading-house of Messrs. P. Chouteau, jr., & Co., situated, as before stated, in the Sac and Fox country, distant about three-quarters of a mile from the agency.

On Saturday morning, the 18th day of September last, (as deponent thinks it was,) the said De Baum came to the said trading-house, where this deponent was, having, as he said, arrived the evening previous, and stopped at the trading-house of Messrs. Scott, distant about a half mile from P. Chouteau, jr., & Co.'s trading post. Deponent asked the said De Baum if he had been to Independence since they parted at Westport, a few days previous. He replied that he had. Deponent then asked him if he had got the mail. He replied that he had got it. Deponent then asked him if he had brought it or what he had done with it. The said De Baum here made signs and hints, and gave looks to show (as deponent thought) that he, the said De Baum, was smart, or, at any rate, seemed to think so himself; and, in reply, he said to this deponent about as follows, as near as he can now recollect his words: "I have it; all is safe," or "it is all right; a part of it (such as I think will do) the agent can have *now*; the other part has gone round on a *pleasure* excursion, by the way of the Pottawatamie agency, and will not be here for a week or two." Deponent is not positive whether he said a "part" or all had gone; thinks he said a part.

This was in the morning, about 8 o'clock. Nothing more was said, as deponent now recollects, at that time by the said De Baum to him. The said De Baum left, and went on up towards the agency, about an hour afterwards. Deponent also went up to the agency, having understood that there was to be a council that day between the Indians and their agent, Major Beach. The said De Baum was there at the agency, and in the company of the agent and many other gentlemen, who were there. The council was organized, and the Indians told the agent they wanted their money; that they understood that he had been down to St. Louis and had got it, and they wanted it. The agent, in reply, told them it was true he had been down to St. Louis after their annuity, and that it was there in his room, all that was due them for that year; but that he was waiting for further orders, or some more papers, which he expected soon to receive, and that until he did receive them he would not make the payment; that he had been looking anxiously for these papers, and was surprised that they had not come to

hand; that he had received his regular mails up to then, yet no instructions or advices from Major Harvey; that he was as anxious to pay them their money as they were to receive it; that it was there on his hands, and he wanted to get rid of the charge and responsibility of it just as soon as possible.

The council broke up for that day; the Indians, however, expressing great dissatisfaction at the delay; they were unusually excited, as this deponent thought. Some of the principal chiefs, head men and braves withdrew from the council and went out to themselves, and there seemed earnestly engaged amongst themselves. They then came back into the general council; many of them made violent speeches to the agent, and said that the next time they came for their money (which would be in a day or two) they intended to have it, and they wanted him to be ready to set it out to them; that it was theirs, and they wanted it; if he did not do so, they would take it.

During this council the said De Baum was within the circle and sitting very near to the agent, and as this deponent thinks must have heard all that was said by the agent, when he was expressing his surprise and disappointment at not having received his instructions, and telling the Indians in council that he expected them; yet the said De Baum never, as deponent thinks, told him any thing about the mail or any package, notwithstanding he was close by the agent, and must have heard all that was said. He did not inform the agent that he had started out with his mail or instructions, or say a word about it, as this deponent thinks and believes; but he had previously informed this deponent that he "had *disposed* of it," and sent a *part* of it on a "*pleasure excursion*," as before stated.

Deponent thinks, that the said De Baum spent much of his time in company with the agent, at the agency, from that time (which was Saturday) until the following Monday, which was the day on which the payment was made. Deponent saw him there again on that day; he was present all the time, and deponent thinks he was called upon by the agent to witness the payment, receipts, and the delivery of the money over to the nation. The agent again stated, that he had *not* received any new instructions, and therefore could only make the payment (which the Indians had, as deponent understood it, peremptorily and positively demanded him to do) under the laws and regulations then in his possession.

This declaration, or words to this import, was made by the agent in the presence of all there, in open council; after which, proceeded to pay out the money. The said De Baum was there present, and, deponent thinks, heard all that was said, as he was most of the time standing or sitting near the agent, and seemed to be rather aiding him as deponent thought; and is quite certain he was called upon by the agent to sign as a witness to the receipts.

Deponent knows the said De Baum, now here present, to be the same gentleman here referred to in this deposition, and the same man whom he saw at Westport, and at the Sac and Fox agency, last September.

This deponent, during his stay at Sac and Fox agency, was frequently up at the trading house of William G. & G. W. Ewing; was acquainted with their clerks and men at that post; he saw no man there by the name of Harris.

Deponent further states, that one or two days *after* the payment had been made, said De Baum came to the store of P. Chouteau, jr., & Co., (where this deponent then was,) and expressed himself very much dissatisfied, because he, said De Baum, had got no money; said he thought they, (meaning the traders generally, as the deponent inferred) ought to give him some money, as he had been so "instrumental" in causing the national payment to be made, and "had been the means of its being made as it was;" and that but for him "it would not have gone off so;" that he had stayed back, intercepted the mail, and *prevented* the instructions from reaching the agent, and had sent them on a "pleasure excursion," around by the Pottawatamie agency, and that he thought, as this "had been a great benefit to the traders," they ought to let him have some money.

Deponent thinks that it was not *after*, but *before*, he got to the Sac and Fox country that the said De Baum first resolved on *suppressing* the mail; but that it was his design and intention to do so when he talked to this deponent at Westport, four days previous.

When deponent first saw said De Baum at the trading-house of Messrs. P. Chouteau, jr., & Co., on the morning of the 18th September, he told this deponent he had "sent the mail out of the way." Deponent does not think he had then seen either Mr. Sarpy, S. S. Phelps, or G. W. Ewing, for he must have arrived late the evening before, and stopped with Messrs. Scott, whose trading-house was some distance from the trading-house of Messrs. P. Chouteau, jr., & Co., and of William G. and George W. Ewing.

Said deponent, after consultation with said De Baum, and before signing this affidavit, thinks that the main Indian council alluded to was held on Monday and Friday, and that it was not on Saturday that the *main* Indian council was held; but saw said De Baum on Saturday at the agent's, and present at the Indian council of that day, in company with the agent, as before stated.

WILLIAM PHELPS.

STATE OF MISSOURI, *county of St. Louis, ss:*

On the day of the date hereof, before me, a notary public and justice of the peace in and for said county and State, personally came and appeared William Phelps, and signed the foregoing affidavit in my presence; and the said William Phelps, being by me at the same time duly sworn upon his oath, declares and says, that the facts stated and set forth in the said above affidavit, so by him signed, all and each of them, are true.

Witness my hand and official seal, at the city of St. Louis, Missouri,
 this twenty-ninth day of December, eighteen hundred and
 [L. S.] forty-seven.

GEORGE A. HYDE,

Notary public and justice of the peace.

Nota Bene.—The said De Baum was present in my office at the time Wm. Phelps signed the within affidavit. He took it and read it over, and after consultation with the deponent, William Phelps, there appeared no other difference of opinion between them in relation to it, except as to the days on which the main council was held with the Indians, and an alteration was made in the affidavit to that effect, by adding the last paragraph thereto.

GEORGE A. HYDE.

DECEMBER 29, 1847.

Z.

STATE OF MISSOURI, *county of St. Louis, ss:*

'This day personally appeared before the undersigned, George A. Hyde, both a justice of the peace and a notary public, within and for the county aforesaid, duly commissioned and qualified, and acting in both capacities and offices, the deponent, Isaac G. Baker, of lawful age, to wit, of the age of twenty-eight years, who being first by me duly sworn on his oath, says: That his place of residence is at present, and has been for the last year, at or near the Sac and Fox agency, on the Osage river, west of the State of Missouri aforesaid. Deponent was at the trading-house of P. Chouteau, jr., & Co., at Sac and Fox agency, last September; saw Mr. Geo. De Baum, jr., there, and understood he came for the purpose of collecting money of Messrs. Scott, traders at that agency. Said De Baum came there two or three days previous to the payment, which was made the 20th September last; saw him frequently to and at the payment, where he appeared very officious in assisting the agent, and must have heard the agent publicly state that he had not received the instructions; and that he did not, to my knowledge, ever whilst there, either before or after the payment was made, inform the agent that he knew anything about his mail or instructions whatever. Deponent is satisfied that he had ample time and opportunity to do so, if he had desired. Some three or four days after the payment, deponent saw said De Baum again, when he was importuning Mr. J. B. Sarpy to loan Messrs. Scott \$1,000, as he expressed himself, that he was very much embarrassed. This Mr. Sarpy *positively refused* to do, and stated to Mr. De Baum that he had nothing whatever to do with the Messrs. Scott. Mr. De Baum then informed deponent, in a very boisterous manner, that he "had been *prime mover* of the then late payment; that he had it in his power to have quashed it at any time," the traders thereby being greatly indebted to him for the result; and that, if he should utterly fail, he would make a noise they would regret; and further this deponent saith not.

ISAAC G. BAKER.

STATE OF MISSOURI, *county of St. Louis, ss:*

On the day of the date hereof, before me, a notary public and justice of the peace in and for said county and State, personally came and ap-

peared Isaac G. Baker, who signed the foregoing affidavit in my presence; and at the same time the said Isaac G. Baker being by me duly sworn, upon his oath declares and says, that the facts contained, set forth, and stated in the above affidavit, so by him signed, are and each of them is true.

Witness my hand and official seal, at the city of St. Louis, Missouri, this twenty-ninth day of December, eighteen hundred and forty-seven.

GEO. A. HYDE,

Notary public and justice of the peace.

AA.

STATE OF MISSOURI, *county of St. Louis, ss.*

This day, personally appeared before the undersigned, George A. Hyde, both a justice of the peace and a notary public, within and for the county aforesaid, duly commissioned and qualified, and acting in both said capacities and offices, the deponent, John B. Sarpy, of the city and county of St. Louis aforesaid, of lawful age, to wit, of the age of forty-nine years, who being first by me duly sworn, on his oath says: That his place of residence is at present at the city of St. Louis, in the county and State aforesaid, and says that, some time in the month of September last, this deponent landed at Kansas City, in Jackson county, Missouri, where he met Colonel A. J. Vaughan, Indian sub-agent. They were in conversation about the expected instructions from the superintendent of Indian affairs. Colonel Vaughan inquired of this deponent if he had brought up any packages or instructions? To which deponent replied in the negative. Whilst together, George De Baum, jr., clerk in the house of Powell & Wilson, late of St. Louis, came up, and addressed me, asking if I had brought instructions? I told him I had not. He then asked me if I was going to proceed immediately out to the Sac and Fox agency? I told him I thought I should not, but that I had business that would take me up to Westport that evening. This was all that was said between us, and this was in the presence of Colonel Vaughan. I went to Westport that evening, but had previously met with Captain William Phelps, who was also going out to the Sac and Fox agency. We staid at Westport that night, and after some consultation concluded to travel on out together to the Sac and Fox post in a small wagon, as it would be less expensive out there than to remain at Westport. Accordingly, in the morning, deponent went back to Kansas, (four or five miles from Westport,) early, on some private business, and to see Colonel Vaughan, and returned up to Westport again about 9 o'clock, a. m.

When about ready to start for the Sac and Fox post, in company with Captain Phelps, deponent thought he would call on Mr. De Baum and inform him of his change of mind, and that he was then about starting out to the Sacs and Foxes. Deponent inquired for Mr. De

Baum. Was informed by the landlord that he was not yet up; went to his sleeping room and woke him up, and informed him that he was going on out, and had come to him to give him the reasons for having changed his mind, and repeat to him that he had not the instructions or any public documents; and this deponent says that he never proposed to the said De Baum to go out and endeavor to excite the Indians to demand payment of their money.

In the course of this conversation Mr. De Baum informed deponent that he had large claims against Messrs. Scott & Kenzie, traders out [at] the Sac and Fox agency; that he was aware of the arrangement which had been made the winter previous between Messrs. Kenzie & Whistler, and the house of P. Chouteau, jr., & Co., and also between the Messrs. Scott and the Messrs. Ewing; that he had seen or learnt the conditions of their contracts; knew that P. Chouteau, jr., & Co., and Messrs. Ewings were first to be paid, and said he did not expect to get any money on the Powell & Wilson claims, then in his hands, against Messrs. Kenzie & Whistler, and the Messrs. Scotts, until they were first paid, and that there need be no hard feeling between them and deponent. Deponent stated that if the mode of payment had not been changed, but continued as in former years, he thought the Messrs. Scott & Kenzie would possibly have collected and realized enough to pay us and him too, and in all events Powell & Wilson might have more hope of getting their money then when payment was made individually. Mr. De Baum then stated he would stay there, or go to Independence and get the mail, and get Mr. Price to allow him to carry it out, and then he would *manage* it. He said it was the only *chance* to go for a "chief payment;" and from the familiar manner he spoke of this thing, deponent could not but suppose that the Messrs. Scott & Kenzie had informed him, when in St. Louis, of the nature of their business with the Sac and Fox Indians, for he seemed to understand it perfectly, and to know not only their contract arrangements with Messrs. P. Chouteau, jr., & Co., and Messrs. Ewing, (for the present year's supplies, 1847,) but also that Messrs. Scott & Kenzie had large national debts against these Indians, (the Sacs and Foxes,) which they *could not* collect if the mode of making the payment should be changed from national to individual. Hence, he stated his determination to aid them (the Scotts and Kenzie) all he could to have a national payment.

Deponent left Westport that morning, (on the 15th September last,) and on the next day (Thursday) arrived, in company with Captain Phelps, at the trading-house of P. Chouteau, jr., & Co., not far from the Sac and Fox agency.

On the following day, (Friday, 17th September last,) this deponent attended the council which was held by the agent; the council he thought was large and full. The Indians, with most of the principal chiefs and head men, made speeches to their agent, which, when interpreted to him, he understood to be asking for their money due them for that year, (1847.) They said they had waited a long while for it; many of their people were sick, and others were very anxious to get

away on their fall hunts; that they understood he (the agent) had their money, and they wanted him to pay it, or set it out to them as he had always done, and as they were promised, when they made treaties, that it should be done; that he had been down to St. Louis and got their money, and that it was now there, and they wanted it. Much more was said, but this seems to be the substance of the various speeches that were made to Major Beach.

In reply, the agent told them it was true he had been at St. Louis, and had returned with their money; it was all there, he said, ready; but he was told by Major Harvey, that he would receive some instructions soon, and not to pay them until he had got them; that he had been anxiously waiting for them, and could not account for their delay; that he had received his regular mails to that time, but not a word from Major Harvey, or from Washington; that he could not pay them until that paper came on. After expressing much disappointment and dissatisfaction at being refused their money by the agent, and counseling some time among themselves, the Indians again came forward into council, and, apparently much exasperated and excited, told the agent that they were going away, but would come again the following day, and then they wanted him to hand them out their money; if he did not do so, they would take it; that it was theirs, and in their country, and was due them for their lands, which they had sold to the United States, and they had waited long enough for it, &c., &c. And this deponent further says, that he did not, at any time, during all the difficulty, attempt, directly or indirectly, or individually, to produce any excitement among the Indians.

On the following day (Saturday) this deponent went up to the agency to hear what the Indians would say, and, after some time, the principal chiefs and head men said to Major Beach, they could not do then what they wanted, and would return another day. At that time Mr. De Baun was present, and alongside of the agent and others in attendance.

On Monday following, (the 20th,) being the day when the payment was commenced, and during all of that day and the following day, (Tuesday,) he saw said De Baun assisting the agent in counting out the money.

During Monday there was a council, at which deponent was there present, and saw the said De Baun there also. The agent again repeated that he had not received the instructions, although he had received his former mails. This deponent thinks he (De Baun) must have heard distinctly all that the agent said about his mail and the non-arrival of any instructions; yet the said De Baun did not then, or at any other time, as this deponent thinks and believes, say a word to the agent about the mail or any packages which he had brought or started with from Westport, or that he had met any person with an order from him for his mail, and gave it, or any part of it, up to said express; notwithstanding he must have heard the agent express publicly his great

surprise and disappointment at the delay, and because no instructions had reached him, and stating also his anxiety to gratify the Indians, to pay over to them their money and get it off his hands.

The agent informed the Indians who had come and demanded their money, that he had not received any new instructions, and therefore could only pay them in accordance with the laws and regulations he then had. The Indians replied, that they were there ready to receive and receipt for it, as they had always done. Receipts were prepared and signed by the chiefs and head men. The said De Baun and others, deponent thinks, were called up to witness the same. Deponent did not hear the said De Baun then, or at any other time, inform the agent that he knew anything in relation to his mail.

About two days after the payment was made, the said De Baun came to the store of P. Chouteau, jr., & Co., and there asked this deponent to lend Messrs. Scott one or two thousand dollars, in order that they could pay the same over to him, on account of Powell and Wilson's claims against said Scotts, and stating, at the same time, his great anxiety to get some money from either the Scotts or Kenzie, on their indebtedness, because it was actually, and in fact, he said, to reimburse him (the said De Baun) for money he had advanced to Mr. Wilson, of the late firm of Powell and Wilson, and it was in this way he was to get his money back. The said De Baun urged, insisted, coaxed, and finally threatened, and said it had been *alone* through his instrumentality and services that the national payment had been brought about, and that but for him it would not have been made; and that, therefore, as it had been a benefit to us, he thought we ought not to refuse to assist him to get, any how, one thousand dollars; that, if we would do this he would go away perfectly satisfied;" and would say nothing more about it. He added, that he had put himself to great trouble and expense to go there, and now he thought the Messrs. Scott ought to get him this one thousand dollars; that he would be ashamed to return to St. Louis, after doing what he had done, without getting any thing on his claims; that, but for him, the instructions would have gone on to the agent. This deponent promptly, and at once, declined lending money to Messrs. Scott, to be by them paid to said De Baun, or any other person, and informed said De Baun that he had nothing to do with the Messrs. Scott, or with him, and had no money to lend; that, as regarded what he might have done to bring about a national payment, he knew nothing, and it did not concern him; that he had no business with said Scotts; that they got their supplies from the Messrs. Ewing.

Said De Baun then left, and said he would go out to the Pottawatomie agency, or payment ground, and try and find Mr. Ewing, and see if he could not get \$1,000 (one thousand dollars) from him. Deponent also went over there soon afterwards; he there again saw the said De Baun, who informed him that he had seen Mr. Ewing, but that he also refused to lend Messrs. Scott any money to pay him. Said De Baun then told this deponent that he would make Ewing feel him, or

suffer, for this, (or words to this purport;) implying a threat, as deponent understood it.

The object of said De Baun, as stated to this deponent, in going over to the Pottawatomie payment ground, was to find Ewing, and try and get money from him. He requested this deponent to give him a letter to Mr. Ewing on the subject, which deponent declined doing, stating that he had no control over Mr. E.; but told him that if Mr. E. would give said De Baun a draft on the house of P. Chouteau, jr., & Co. for the one thousand dollars he wanted to get of him, it would be honored, and paid on presentation.

JOHN B. SARPY.

STATE OF MISSOURI, *county of St. Louis, ss.*

On the day of the date hereof, before me, the undersigned, a justice of the peace and notary public in and for said county and State, duly commissioned and qualified, and residing in the city of St. Louis, personally appeared John P. Sarpy, who, being by me first duly sworn according to law, upon his oath says, that the facts and statements contained and set forth in the above and foregoing affidavits, by him signed, and which was signed by him before me, and in my presence, are, and each of them is, true.

In testimony whereof, I have hereunto set my hand, and affixed my notarial seal, at my office in St. Louis, this eighth day of January, A. D. 1848.

GEO. A. HYDE,

*Justice of the Peace and Notary Public,
St. Louis county, Missouri.*

BB.

[Extract.]

AGENCY, CITY OF IOWA,
December 24, 1847.

DEAR SIR: I hope that ere this you are through the fatigue of your fall labors and able to enjoy a little rest and comfort with your children. I am at present quite as busy as of yore in times of payment, attending to my brother-in-law's store, having a pretty brisk trade, and William gone down about Hannibal with a large drove of hogs; and, as I have to neglect some of my near kindred in the epistolary way, you must excuse me if I do not wander from the most concise reference to the matter in hand.

I have to-day received a letter from Alexander, in which I learn, for the first time, that my successor has assumed his duties, the earliest of his functions being the serving upon your establishment a writ of injunction against further mercantile pursuits among the Sacs and Foxes, the cause given that a man employed by you, named Harris, purloined or destroyed letters, supposed to be official instructions to me

addressed, concerning the recent annuity payments. I had never before heard of such a man being in your employ, nor any ground to suppose you in any way concerned in any such transaction. After leaving my late post in Westport, when settling my postage bill, I discovered that a mail which I had not received had been sent to me, and, upon investigation, that De Baun of St. Louis had been entrusted with it by the postmaster. De Baun passing through Westport next day, and being accosted by the postmaster in the matter, then learned that he was betrayed, and overtaking me in St. Louis, for the first time spoke to me about it, endeavoring to explain and palliate his conduct. But his explanation, in connexion with his previous operations, all which in my mind there reviewed, convinced me that he had been guilty of a base breach of trust, in which finding himself detected, he was now disposed to smooth over as well as he could. I am satisfied he is the guilty man, and I believe myself able to prove it.

On the day of, and some two or three hours after the council, in which the Indians threatened to seize the money, De Baun having just arrived, called up to the house, (agency,) I being alone, and the existing matter then pending became our conversation. I read him the speeches, my own remarks too, in which I plead the non-receipt of the instructions; I fully expressed to him my vexation at the delay attending them. From then until the payment, three days, he must have known the notorious fact that I was putting off the Indians all I could, and hoping hourly for the instructions; and although I saw him frequently, and even availed myself of his services to assist at the payment, he studiously avoided any reference to the mail which had been sent by him.

Now, to me, knowing all the facts, and able as I am to weigh and compare circumstances, the affair is plain enough; for this De Baun started with me from St. Louis, as I took the money, intending to accompany me to the agency. I remember distinctly that in making my calculations about my guard after taking land, I counted upon him as one of the number; but suddenly, while travelling on the boat, he changed his mind, landed some sixty five miles below our landing, carefully informing me that business required it, and then came up by land to Westport, where it appears he procured himself to be sent back to obtain our mail irregularly and illegally, I suppose from another office, which he failed to bring to me; and although he must have known, and beyond all dispute did know, that I had not received it, refrained with a marked caution, from at all alluding to it. It is plain: he had heavy collections to make of Scott and Whistler; he learned the probable nature of the instructions; he learned that they had not been received when we left St. Louis; he reflected that if the payment should be made to individuals, his debtors would collect but little; and, as a consequence, neither would he; and doubtless devised the scheme of waylaying the instructions if he could. Again, after the payment, he said to me that if you did not pay him certain money (on account, I think, of Scotts) that he would give you some trouble;

that he would revoke your license. What he meant I do not know, nor did I ask him. De Baun is the guilty man.

In haste, with regard, yours truly,

JOHN BEACH.

Col. G. W. EWING, *St. Louis.*

I certify that I have compared the foregoing with the original letter, of which it purports to be an extract, and that it is a true and faithful copy of said original so far as copied, and that the part of the original not copied refers to private matters.

T. POLK.

ST. LOUIS, *January 17, 1848.*

CC.

[Extract.]

AGENCY, CITY OF IOWA, *January 11, 1848.*

DEAR SIR: When I got to Westport with the money, (Wednesday evening, September 8th,) I took along all the mail there was; and a man whom I knew, Mr. J. Hutchinson, expecting to come out the next week, I asked him to bring such mail as there might be, and he promised, should there be any thing appearing official, if possible, to bring it out as soon as it arrived. I also asked Price, the postmaster, or his nephew, Keller, to watch for trusty opportunities to forward. I reached agency 10th; and, on the evening of 16th, my next mail, embracing three arrivals at Westport, came to me; both, I believe, by Hutchinson, who came out that day, though he did not bring it to me. I think a man named Sharp brought it to the house. I opened it, feeling sure of the instructions, which, much to my vexation, were not there; but the way-bill, signed by Price, proved all to be right. About the same time I heard (perhaps the word was brought by Hutchinson) that McGee, of Westport, would start out on the 18th, and bring the next mail, to wit, of that day. I felt pretty sure that such would be the case, from what he told me; but to make it perfectly sure, learning that a man was going in, and to return, I gave him an order for the mail. I was in a hurry; wrote the order in a hurry, with the idea that it would be a mere chance if he got the mail; nor did I know the man by whom it went. Next evening, the 17th, a few hours after the council at which the Indians had threatened to seize the money, I being alone at the house, De Baun, of St. Louis, came in; said he had just arrived. He got upon the subject of the council. I read him the speeches; spoke plainly of my vexation at the non-receipt of the instructions. He staid some time; went with me to tea. The next day the Indians were to seize the money. That night was an anxious night to me, as well as a busy one. I had good friends there, in ordinary cases; but only one who could be useful, (as talking both tongues,) on whom I could depend. I was sure I would receive the instructions on Sun-

day 19th, and my effort was to get over the 18th, if I could; and I did get over it. The Indians came up. Every body expected to see me pay, or the money be taken; but I knew differently. Here, however, my ability was at an end, until after Sunday, on which day of the week the Indians never knowingly came to me. I saw De Baun much on the 18th. On the 19th McGee brought the mail; and all right, as per bill. There were no instructions, and I was done for further effort; I felt out of patience; at all events, I had to make the best of a bad matter; and, when the 20th came, and with it the Indians, they got the money. I saw De Baun daily; must often have spoken to him, or in his presence, about the non-receipt of the orders; and during all that week he carefully avoided all reference to the mail.

When I came to Westport, (leaving the country,) I found a mail of eighty cents was charged which I had never received, nor any part of it. On investigating, it was traced to De Baun; otherwise, it would have been part of that received on the 19th, in regular course. De Baun came through Westport next day, and, learning from Price that he was detected, began, on meeting me in St. Louis, (he passed me on the river, aground,) to explain and excuse himself about it; expressing great surprise that I had not received it; said he had my order for the mail. I told him the order was to Price, not him. I said but little to him. I never heard, that I remember, of any Harris being over at the agency at Osage. I never knew or saw, to know, any of that name. I must have often heard the name of the man to whom I gave the order, but am confident it was not Harris. As McGee brought the mail—the only one I could or did expect—the order, as well as the man it went by, escaped my mind; nor did I ever see the man afterwards.

De Baun's whole course seemed to me strange—*i. e.*, to my subsequent reflection. He left St. Louis, intending, as he said, to go in company with me all the way out. On the boat he changed his mind, landed at Wellington; and the next I heard of him, at Kansas, soon after I passed through. He learned on the boat of the instructions which were to come, before the payment could take place. His business up there was to collect from Scotts and Whistler. The impression I took up, on first discovering the loss of the mail, reflecting on attending circumstances, &c., was, that De Baun had played the game knowingly, designedly, with sinister intent. If there were official documents in the package entrusted to him, he would likely have known it, and supposed it the one in question; and he equally knew that I had not received it; and he most assuredly did, with a marked care, abstain from reference to it, under circumstances which would naturally, I may say *necessarily*, have led him to speak of it, had there been no decision.

With much regard, I remain your obedient servant,

JOHN BEACH.

Major TH. H. HARVEY,
*Superintendent of Indian affairs,
 St. Louis, Mo.*

DD.

SAC AND FOX AGENCY,
Iowa, January 22, 1848.

SIR: I hereby certify to the facts, circumstances, &c., &c., set forth by me in my letter to you of December 24th ult., in reference to the act of a Mr. De Baum, of St. Louis, having intercepted letters addressed to me at the Indian agency in September last. I certify that all I have stated there is true, to the best of my knowledge, belief, and opinion; summing up, that I believe said De Baum guilty of having wilfully, purposely, and with improper intent, suppressed a mail, with a design to prevent its coming into my hands, in which mail I have reason to believe were official instructions from Major T. H. Harvey to me; and further, that I never knew any thing to justify the least suspicion that you directly or indirectly, by yourselves, or any in your employ, were concerned in the transaction. And you are hereby authorized to use the whole of my said letter of December 24th in such way as you may choose in your own defence and justification, which I wrote before hearing from you in the matter, actuated alone by what I believe truth and justice required. And my opinions and statements in said letter, in regard to the matter in hand, I would avow and utter if under oath before a court of law or other legal tribunal.

JOHN BEACH.

Col. GEORGE W. EWING.

 EE.

DETROIT, 18th May, 1847.

SIR: I enclose the accompanying letter, which I have received from Mr. Ewing. I have informed Mr. Ewing, that my being the channel of communication would not promote the object which he had in view; but that the Department would look at the subject independent of any opinions which might be presented. Still, as he has preferred that I should forward his letter, and express my views in relation to it, I do not hesitate to do so.

I observe that the act of Congress respecting the change in the mode of paying the annuities is not imperative, but vests the discretion in the Department. Mr. Ewing has certainly given strong reasons why the change should not operate to defeat the arrangements already made with the consent of the parties. It might operate as well *injuriously* as *unjustly*; and it seems to me that the change, when introduced, should be prospective, leaving existing arrangements to be carried into effect under the present order of things.

I am, sir, very respectfully, your obedient servant,

(Signed)

LEW. CASS.

Hon. WM. L. MARCY,

Secretary of War.

FF.

WAR DEPARTMENT,
Office Indian affairs, May 26th, 1827.

SIR: I have the honor to acknowledge the receipt of your letter of the 18th instant, enclosing one addressed to you by W. G. Ewing, esq., with respect to the operation of the law of the last session, providing for a change in the mode of paying Indian annuities.

All that can at present be said upon the subject is that in framing instructions to the agents when the next annuities—those for the present year—are remitted, due regard will be had to the just and *bona fide* claims against the Indians, so far as their necessities and actual welfare will admit.

Very respectfully, your obedient servant,
W. MEDILL.

Hon. LEWIS CASS, *U. S. Senator,*
Detroit, Michigan.

GG.

WAR DEPARTMENT,
Office Indian affairs, May 19, 1847.

GENTLEMEN: Your letter of the 10th instant, and the memorial to the Secretary of War which accompanied it, have been received and duly considered.

Without entering into a discussion of the several points, and the arguments in support of them, embraced in the memorial, it is deemed sufficient at this time to assure you, that the Department will endeavor so to frame its instructions to the different agents and sub-agents, in reference to the execution of the law of the last session on the subject of the payment of annuities, and of contracts entered into by Indians, as to avoid doing injustice in any case to persons who are *bona fide* and in good faith their creditors.

Signed, Very respectfully, your obedient servant,
W. MEDILL.

Messrs. P. CHOUTEAU, jr., & Co., and W. G. & G. W. EWING,
St. Louis, Mo.

HH.

OSAGE RIVER SUB-AGENCY, Sept. 29, 1847.

The following is the result of a council this day held at my sub-agency, between the Pottawatamie Indians, of said agency, in full council assembled, and the following named gentlemen, being licensed traders, namely, John B. Sarpy, of the firm of P. Chouteau, jr., &

Co., George W. Ewing, of the firm of G. & G. W. Ewing, M. Girard, Sam'l Lewis, Joseph Clymer, jr., of the firm of Ewing & Clymer, John W. Polke, of the firm of Thos. W. Polke & Co., Wm. W. Clighour and Moses H. Scott. These gentlemen were creditors and claimants; the said Indians having executed to them national obligations for the respective amounts due them, up to the 17th day of June, 1846, the day on which the said Pottawatamie Indians signed the late treaty.

The said claimants requested the Indians to set apart and pay them now, out of their present moneys, (being in *all near* \$74,000, the *sum* of \$17,000 to pay the first instalment,) due them on the notes executed by the said Indians to them severally on the 17th June, 1846, before referred to. They explained fully to the Indians the *reasons that induced them* now to demand this instalment; they thought they were by the agreement entitled to it now, out of the present annuity, and that they should not be required to wait until the Indians should be on the Kansas river, as it was then; the said claimants understanding that they were to be paid the first instalments out of the annuity moneys of the year 1847; and that the Indians were to have moved there (to Kansas river) last spring, or in the fall of 1846. That it would be hard for them, the claimants, to be kept any longer out of their demands, as this \$74,000, now about to be paid to them, was in part the identical money which the Indians had promised to pay them when they assumed these debts, and executed their notes; that although the claimants were willing to waive their claim to the \$20,000, derived by the 5th article of the late treaty, and consent that the Indians might apply that to the payment of their improvement, yet they believed they were justly entitled to the first instalment on the national obligational obligations, before referred to, out of the remaining moneys in my hands.

The council was conducted with all proper decorum and good feeling. The claimants, after having stated their case, and at the request of the Indians, retired. No white man remained in the council but myself. The Indians being, as before stated, in full council, considered the proposition of their traders. They did not, for a moment, deny the claims, but admitted them; said they knew they owed the claimants, as stated, and they authorized me to say for them, to the claimants, that said obligations or contracts should be fulfilled and paid. That according to their understanding, they were not to pay them until they moved on the Kansas river; and that there they would pay them promptly and honorably. The Indians said not a word against the payment of the said claims; on the contrary, they seemed fully determined then and there to pay them.

They cited to a large walnut tree, close by us, and said that it was there where they had, in full council, assumed these debts, and agreed to pay them out of the first annuities which they should receive on the Kansas river, derived from this new treaty; and they now renewed their pledge to do so. But candor forces me to admit, that had they

have acceded to the proposition made them to pay one-half of their indebtedness, say \$17,500, I should have most solemnly protested against it, from the instructions which I had, and which had been explained by me to them, requiring me to recognise no debt of a national character, unless first sanctioned by the Department. I *make* this statement in justice to the parties; and I repeat, that the Indians expressed their entire willingness and determination to pay said obligations on the Kansas river. The interpreter used on the occasion was Joseph N. Bourassa, an educated Half-breed, of the Pottawatamie nation, in the presence of Joel W. Barrow, United States interpreter, and many other intelligent Half-breeds. This is a full and minute statement of what transpired at the council above alluded to.

(Signed)

ALFRED J. VAUGHAN,
Indian sub-agent.

The foregoing is a correct and full statement of the proceedings of the council referred to.

(Signed)

J. N. BOURASSA, *Interp'r.*

We, the undersigned, Pottawatamies and Half-breeds, were present at said council, and concur in the above statements. They are full and correct.

(Signed)

JOSEPH BERTRAND, Jr.
SAMUEL L. BERTRAND.

I hereby certify, that the foregoing and above is a true and correct copy, made by me.

B. K. MORSELL.

March 30th, 1848.

As it did not seem appropriate, in the foregoing argument, to attempt a refutation of the insinuations contained in Col. Medill's report to the Senate, and his pamphlet, from the columns of the Union, entitled "Sac and Fox payment," it is deemed advisable to insert here the statements of R. Chute and J. P. Edsall, with a few words only of explanation.

Since the year 1826, when important treaties were begun in the west by Generals Cass, Tipton, and others, it was the settled practice of the Government to appoint *boards of commissioners*, of talented and distinguished men, to investigate all the claims of traders; carefully to examine *all their dealings*, books, clerks, and witnesses under oath; and award so much, and no more, to be paid than was thus found to be true and just balances, after thus investigating all their dealings. This prevailed up to, and at the treaty of, October, 1842, with the Sacs and Foxes.

Thus *all the dealings and trade* of the Messrs. Ewing, have passed *the ordeal of these tribunals*, mostly composed of able jurists, such as

the Hon. T. A. Howard, J. W. Edmonds, N. West, and other talented and distinguished men.

The *evidence* taken by them, and their *awards* and *decrees*, are now on file among the records of the Government, and have been *affirmed* by different administrations; yet in the face of these *records*, that cannot be impeached, untiring slanders are written and reiterated against their business.

The claims of the Messrs. Ewing embracing *all their principal trade* and business of the last twenty-five years have been thus investigated; nor have they received any more than the tribunals of their country have awarded too be balances thus just and due. This is certainly an ample and sufficient refutation to volumes of these vile slanders. Incompetent men in their employment may have made some errors, but they were always submitted to a tribunal for their correction in the course of these transactions.

In the trade for money, and furs, and skins, the competition being very great, the prices of goods were much lower than paid by the citizens upon the frontiers—often at cost.

The attached statements of two of the clerks of the Messrs. Ewing are submitted to dispel some of the contemptible calumnies uttered in relation to their business and acts at the time of the treaty of October, 1842, with the Sacs and Foxes.—[See exhibits 1 and 2.]

“Whiskey sellers,” at Iowaville and along the line, whose claims Gov. Chambers refused to have investigated, were charged by him with having attempted “to propitiate him;” and it is to these, as “one set of traders,” he refers in his letter accompanying his report to the Government of this treaty. In his conversations he publicly charged the “whiskey sellers” with this conduct, and exonerated the Messrs. Ewing and all the licensed traders from any such imputations.

The vile attempt to create an impression, without *evidence* to warrant it, that Mr. Ewing “attempted to propitiate Gov. Chambers,” deserves, as it will receive, the condemnation and scorn of all just men.

Anonymous pamphlets, with tedious pages of newspaper slang, republished with garbled and disjointed extracts from official reports on file in the Indian bureau, unsustained by evidence, will fail in their malignant design.

Col. Medill makes the gravest accusations against the Messrs. Ewing in consequence of their former trade with the Miamis, and all this is *thrown in* to prejudice them before the country. In regard to that matter, they think it sufficient for the present to say, that the testimony on file in the Department, as reported by Messrs. *Clark* and *Bloomfield*, commissioners, sufficiently shows that the facts are not as stated by Col. Medill, and that all the inferences he has drawn against them are false. They cannot here refer to them in detail, but they fearlessly appeal to them, and challenge their examination.

No. 1.—*Mr. R. Chute's letter.*FORT WAYNE, *May 10, 1848.*

Messrs. W. G. and G. W. EWING.

GENTLEMEN: I have just perused a pamphlet entitled "Indian Trade—The late Sac and Fox payment," in which, on pages 8 and 9, is an extract from a report of Messrs. Hebard and Bridgeman, "agents for examining Indian accounts," to Gov. Chambers, the commissioner who negotiated the treaty of October, 1842, with the Sac and Fox tribe of Indians, in which it is stated that, in examining the accounts of your firm against said tribe a bill of goods, "amounting to \$6,556 12, was found twice entered upon the journals, at places considerably distant from each other, and twice carried into the ledger, and entered twice into the amount of the claim presented by Mr. Ewing."

I will now detail to you the facts of this case. This bill of \$6,556 12 was, as by them stated, *twice* entered on the journal, and of course *twice* posted, and in making a schedule of the accounts was *twice* embraced. The error occurred as follows:

At the time the goods were sold to the nation, (for it was what is called a national claim,) a note was taken for the amount, to which note was appended an invoice of the goods sold; this invoice or bill of goods sold was directed by your senior to be charged to the account of the nation on the journal, which would remain at the outfit, whilst he would keep the note as a voucher supporting the transaction in his own custody. This was so entered upon the books by one of the clerk, but in adding up the amount he made an error, which made the total footing either more or less than it should have been. I think the note was for goods sold in September, 1841. I went to your Sac and Fox outfit in the fall of 1842, and intended to give the accounts a careful revision, and properly schedule them; but being, on the first day of the payment, (which transpired a short time previous to the treaty,) attacked with a violent congestive fever, was prevented from so doing. At the time Gov. Chambers came out to make the treaty, I was dangerously ill, and W. G. Ewing was soon after attacked with the bilious fever. Having no one about the outfit capable of regulating the books and drawing off a correct schedule of the accounts, and the time allowed you to prepare them being very short, you employed a young man (whose name is not now recollected,) who said he was qualified to do so.

Upon examining the notes in your possession with the entries on the ledger, (and both were quite numerous) there appeared no charge corresponding with the note you held for \$6,556 12, as an error had been made in the addition of the items for which this note was given, as before stated, and thinking it had been omitted, it was again charged, posted, and consequently abstracted. After the young man had worked two or three days trying to make a correct exhibit, W. G. Ewing finding that he had made many mistakes and blunders, and that the schedule and books must be filed with the commissioners, Mr. Hebard &

Bridgeman, on the following morning came to me, and desired, if it was possible for me to do so, to make a schedule of the accounts. I left my bed for the first time in some days, and though very feeble, made, as I believed, a correct abstract of the books, but having neither strength or time to compare the books with the notes, or revise the journalizing, did not do so; hence this error remained undetected until investigated by the commissioners. That it was made without premeditation, unintentionally, and in the hurry incidental to the occasion, I firmly believe, and am fully convinced of this from the fact that all the ledgers, journals, Indian accounts and notes, together with invoices of most of the goods taken to the outfit, were placed in the hands of the commissioners for examination, (and I believe that many of the invoices are yet in the hands of Gov. Jno. Chambers,) and it could hardly be expected that so large an error could escape scrutiny. When able to ride out I went to the agency, and upon my examination before the commissioners this error was pointed out to me. I detailed the circumstances, and showed those gentlemen how it occurred, and Mr. Bridgeman expressed himself as being fully convinced that it was purely an unintentional error, and, if I mistake not, so expressed himself to Gov. Chambers in my presence on a subsequent occasion.

(It frequently occurred that the items of goods sold to bands on national account, for which notes were taken, were not charged on the journal at the date of the transaction, the clerks thinking that the notes to which were appended a list of the goods and prices, were all sufficient to show the particulars; but W. G. Ewing desiring the books to show all sales, had the items regularly entered on his arrival; hence the transposition of dates named in the commissioners' reports.)

After the investigation had made some progress, the commissioners came to the room where we were both laying sick, and W. G. Ewing, in my presence, frankly told the gentlemen that some of the goods charged to different bands in the national account were charged at high prices, as at the time they were sold the understanding with the Indians was, that they were not to be paid until the treaty, and that it was not known how long they would have to wait for the pay; that being in possession of the invoices, they (the commissioners) could make an estimate of the cost, on which they could allow them a fair profit, and he would be contented; but that the goods charged to individual accounts were sold at the regular retail prices of the trade, and that he thought no deduction should be made therefrom. Messrs. Phelps, in connexion with P. Chouteau, jr., & Co., were allowed about \$100,000, yourselves \$66,000 and some hundreds of dollars, and Mr. Eddy over \$50,000 by the commissioners, and the amounts were inserted in the treaty.

In regard to the "singular and bungling attempt made to propitiate" Gov. Chambers towards "one set of traders," referred to in his report, I would say, that I never heard of it until this day, and believe that no such attempt was made by you, or any other regular licensed trader, but that it came from a set of whiskey dealers living down at Lowaville,

below the Indian line, who I was informed filed claims for a large amount, which were very properly promptly rejected; and I consider it an act of gross injustice towards the regular trader, who takes large stocks of serviceable goods amongst the Indians, and who enters into a heavy penal bond to the United States, faithfully, himself and clerks, to observe the "Intercourse law," to class them with the low, depraved, and desperate whiskey sellers on the frontier, who, setting all laws, civil and humane, at defiance, continue to furnish the border tribes with the deadly poison that is so silently but swiftly working their destruction.

The foregoing statement I believe to be strictly true and correct; and that in regard to the error of \$6,556 12 is predicated partly on what was told me by the clerks of the outfit, the young man employed to make the schedule, W. G. Ewing, and partly on my own knowledge, and I think it is strictly in accordance with the facts.

Mr. Hunt had been in your employment at a salary of \$1,000 per annum. W. G. Ewing had refused to re-engage him, and I believe done all he could to prejudice your business, as I was informed of many threats he made in this regard, unless he was reinstated.

He went before the commissioners as a voluntary witness *against* your claims, but I have yet to learn that his examination elicited anything more in regard to the transactions of your house than had been previously fully detailed by myself and Mr. Parmelee, your clerk in charge.

Signed,

Respectfully, yours, &c.,

RICH'D CHUTE.

This is to certify that I was clerk in W. G. and G. W. Ewing's employment in the year 1841, and took for them a drove of horses to the Des Moines, and sold them to the Sac and Fox Indians. Said horses were generally good horses, and well adapted to the Indian trade; that while at said Ewings trading-house, in the summer and fall of 1841, I assisted in selling a large amount of goods belonging to said Ewing to said Indians, which were of an excellent quality and style, and well adapted to the Indian trade, and believe to be superior to any goods sold in that country while I was there. These goods were charged at fair prices, as is generally sold to Indians. All the business of said Ewings that was transacted by me was fairly and correctly transacted. The credits were made in the general way of that country, some of them individual and some of them national, which was their mode of taking credits. The interpreters frequently said that the Indians said the Messrs. Ewing's goods were good and rich Indian goods, and the best they had ever seen. The horses and goods were charged at prices that Indians were generally charged for the same in this country.

Signed,

J. P. EDSALL.

FORT WAYNE, Aug. 28, 1842.

STATE OF INDIANA, *Allen county*, ss:

Personally came before me, William Brown, an acting justice of the peace in and for said county of Allen, Joseph P. Edsall, who being by me duly sworn, deposeth and saith, that the foregoing statement signed by him is correct and true as he truly believes.

Sworn to and subscribed before me, this 29th day of August, 1842.

(Signed)

WM. BROWN, *J. P.* [SEAL.]

ARGUMENT

OF

W. G. & G. W. EWING AND OTHERS,

UPON AN APPLICATION

TO THE PRESIDENT OF THE UNITED STATES

TO ENFORCE AN AGREEMENT BETWEEN

THE MIAMI INDIANS AND THEIR CREDITORS,

DATED THE 24TH OF OCTOBER, 1842.

WASHINGTON:
GIDEON & CO., PRINTERS.
1850.

ARGUMENT.

TO THE PRESIDENT OF THE UNITED STATES:

On the 28th of November, 1840, the United States made a treaty with the Miami nation of Indians. When executed by the Indians, the 2d article stipulated, that of the \$550,000 which the U. States agreed to pay the Indians, \$250,000 was to be applied "*to the payment of the debts of the tribe,*" and the remaining \$300,000 to be paid to the nation in twenty equal yearly instalments.

The 3d article provided, that the United States should, immediately on the ratification of the treaty, appoint a commissioner or commissioners, "*to investigate all claims against any and every member of the tribe,*" which had accrued subsequent to the 6th November, 1838, and between that time and the ratification of the treaty. And it enjoined it upon whosoever should be appointed for this duty, "*to inquire into the equity and legality of the original cause of indebtedness,*" and to report only such as were "*both legal and just.*"

The 9th article provided, that if, after the payment of all the debts of the tribe, there should be an unexpended balance of the \$250,000, it should be paid over to the nation, at their annuity payment; but that, if the sum of \$250,000 should "*be found insufficient to pay the said debts, then, the ascertained balance due on the same to be paid out of the annuity arising from this treaty.*"

On the 25th February, 1841, the Senate of the U. States ratified this treaty, with amendments. The 2d article was so changed as to increase the amount set apart for the payment of debts to \$300,000; and the 3d article so changed as to apply \$250,000 of the \$300,000 to the payment of debts contracted before the 28th November, 1840, and the remaining \$50,000 to the payment of debts contracted between that date and the ratification of the treaty. The 9th article was so amended as to strike out all after the word "*ascertained,*" so as to release the United States from the obligation to pay any balance that might be due out of the annuity arising from the treaty.

On the 15th of May, 1841, the chiefs, headmen, and warriors of the Miami nation gave their assent to these amendments of the Senate, and on the 7th of June the treaty was proclaimed.

Besides these general provisions for the payment of debts, the 4th article of the treaty stipulated that \$25,000 should be paid to John B. Richardville, the principal chief; and \$15,000 to the executors of Francis Godfroy, out of the money set apart for the payment of debts by the 2d article; that is, out of the \$300,000. [See Exhibit A.]

After the ratification of the treaty, the President appointed three commissioners, Messrs. O. L. Clark, Lot Bloomfield, and Jonathan McCarty, who made an examination of the debts due by the Indians, and reported to the department that, of debts contracted *before the treaty,*

they owed the sum of \$185,338 72, and of debts contracted *after the treaty*, they owed the sum of \$203,568 68, which made the aggregate of their indebtedness \$388,907 40. As \$40,000 of the \$300,000 appropriated to pay the debts were applied to the payments to Richardville and the executor of Godfroy, as provided in the 4th article of the treaty, there was left but the sum of \$260,000 to be applied to this purpose. This sum was so applied, and after its payment, a balance was left unpaid and due the creditors, of \$128,907 40.

The amount reported by the commissioners did not, as some of the creditors thought, represent the true amount due by the Indians. They insisted that their accounts had been unnecessarily and wrongfully reduced. They, therefore, in 1842, brought the matter before the Commissioner of Indian Affairs, who, after careful investigation, decided that there was due the creditors near \$40,000 more than had been reported by the commissioners. In the case of Messrs W. G. and G. W. Ewing alone, he increased the allowance nearly \$20,000. Neither the Secretary of War, nor the Commissioner of Indian Affairs, however, made any provision for the payment of this increased allowance. The creditors were required to look to the Indians. Accordingly, in the fall of 1842, this result of the investigation at the department, was laid before the nation, and the creditors requested that some provision should be made for the recognition of it, as a part of the debt due. Under the influence of *white* men who counselled them, the Indians declined making any arrangement in relation to this increased allowance, but insisted that both they and their creditors should be bound by the report of the commissioners, and that they should be held liable *only* for the \$128,907 40, beyond the \$260,000 paid under the treaty. After much negotiation between the parties, it was agreed between them, that the creditors should abandon their demand for the increased allowance made by the department, and that the matter should be compromised by the agreement of the Indians to pay \$12,500 each year, for *fifteen* years, which would make an aggregate of \$187,500, and would be an allowance of about *four per cent.* interest upon the \$128,907 40.

Pursuant to this last arrangement the chiefs, headmen, and warriors of the tribe, on the 24th of October, 1842, executed their *national obligation*. By this, they set apart and deposited in the Branch bank, at Fort Wayne, \$12,500, and "*in addition thereto,*" agreed "*to set apart a like sum at each annual payment of our [their] annuities for the space of twelve years.*" They also set apart two instalments, or \$25,000, "as an equivalent for interest and all damages for delay of payment." They requested the Government of the United States "*to retain the amount set apart from year to year in the Treasury of the United States, and to pay the same to our [their] creditors,*" according to "*the spirit and meaning of the treaty, and that part of article nine rejected by the Senate.*" They also stipulated expressly, that the sum so set apart should be "*taken and received in full discharge and satisfaction of all claims and demands whatsoever against the said nation, and against the individuals of said nation, arising from any*

contract or dealing between the 6th of November, 1838, and the 25th of February, 1841, either on the part of the nation or individuals." [See exhibit B.]

With this arrangement the Indians and creditors were both satisfied. It was made in the presence of Allen Hamilton, esq., the United States sub-agent, and a most respectable gentleman, in whom the Indians had entire confidence, and not the slightest objection was heard to it. The Indians were so far resolved to execute it on their part in good faith, that they caused Col. Hamilton to pay the instalments of \$12,500 each, for the years 1842, '43, and '44; and during all this time they expressed no dissatisfaction.

Not a word of murmuring was heard against it until, during the year 1845, when Joseph Sinclear was appointed sub-agent, Col. Hamilton having resigned. He was *a most unmitigated scoundrel*, as the sequel will show, and began his *rascality* almost with the date of his appointment. On the 7th July, 1845, (he was appointed sub-agent on the — day of June, 1845,) he commenced his interference with this agreement between the Indians and their creditors, by sending a copy of it to the Commissioner of Indian Affairs, and *falsely* representing to him that it was the "*source of much dissatisfaction on the part of the Indians,*" who, according to him, asserted, "*that the contract is [was] for a larger amount than was due the traders, that it was never correctly interpreted to them, and that the transaction was fraudulent from the beginning.*" [See exhibit C.]

Every word of what was here written by Sinclear was untrue, as I shall hereafter show most conclusively. He employed these and other falsehoods to lay the foundation for the fraud which he afterwards consummated. It was a deliberately formed plan to cheat the creditors and *make money for himself*. All of this will fully appear by abundant proof.

Not satisfied with misrepresenting the Indians on the subject, he found it necessary, for the accomplishment of his designs, that he should assail the reputation of one of the most respectable and honorable men in the country, *the honorable James Rariden*, who had acted as attorney for the Indians at the time the agreement was made. He knew very well that the pretence set on foot by him, that the Indians were *dissatisfied* and had pronounced the transaction as "*fraudulent from the beginning,*" would avail but little, so long as it was shown that their rights, at the time, were guarded and protected by Mr. Rariden. He, therefore, assailed him also, by accusations which every man who knows Mr. Rariden, will, without hesitation, pronounce false and mendacious, and as wholly inconsistent with a long life of the most inflexible integrity, in both private and public station.

He continues, in his letter to the commissioner: "*They [the Indians] charge upon James Rariden, (who represented to them that he was appointed their attorney,) that he was at the time of the execution of this contract, acting as the agent, or at least as the friend of the claimants, according to a contract entered into between the traders, or a portion of*

them, and himself, in the city of Washington, in the spring previous to the execution of their contract with the claimants; by which contract Rariden was to receive a large sum of the claimants in consideration of his favoring their operations with the Indians."

It would be difficult to put together more falsehood than this in so short a space; and when I come to notice it more particularly, I shall have no trouble in showing it to be so. For the present, I use it only to show the cunningly devised plan of Sinclear to defraud these creditors.

He knew the general basis of the settlement, as indicated by the agreement, a copy of which he sent the commissioner; but this did not afford him sufficient information to predicate his scheme of fraud upon. Although, as a sub-agent, he had no legitimate use for it, or business with it, yet he devised a pretext also, by which he could procure the amount allowed by the commissioners, as well as the amount paid under the treaty. This was necessary to enable him to act advisedly, and to understand the ground upon which he stood. Accordingly, in his letter to the commissioner, he says: "Frequent inquiries are made of me in relation to this matter, but as I am not in possession of the commissioner's report, upon which the contract seems to be based, I am unable to give any explanation that is satisfactory; will you in your next communication to me state the entire amount allowed by the commissioners, as well as the amount that was paid thereon from funds provided by treaty."

"I shall be *called upon*, no doubt, *at the first council* that is held, to make a *full explanation of this matter to the tribe*; and as it is a matter involving a large amount of money, I wish to act precisely right; if you have any suggestions to make touching the difficulty, I shall be happy to receive them."—[See exhibit C.]

Now, is it not a little singular, that about three years had passed by since the contract, and \$37,500 had been paid on it, and not *one word of complaint* from the Indians, or any body else, was heard until this man got into office; when, all at once, "*frequent inquiries*" were made of him in relation to it? The Miami Indians are known in Indiana to have had more confidence in Colonel Hamilton than in any other man in the State. He was a man of acknowledged integrity, and had dealt with them for many years. He was present when the agreement was made, and knew all about it; yet he heard no complaint at the time, nor as long as he remained in office. The Indians made no "*inquiries*" of him; he never heard that they considered the transaction as "*fraudulent from the beginning*;" he knew nothing of the charges against Mr. Rariden. Now, is it not a little curious, that all these things should have been kept a profound secret to Colonel Hamilton, and yet they should be made known to Sinclear almost as soon as he got into office; and that "*frequent inquiries*" should have been made of him by the Indians, when the Indians knew perfectly well that *he was not present when the agreement was made, and knew nothing about it?*

But this letter was carefully written, so as to prepare the department

here for his subsequent movements. The immediate objects which he sought to accomplish by it were these: *first*, to make the impression that the Indians were dissatisfied; *second*, that they considered themselves as defrauded, and that the agreement called for a *larger amount than was due*; *third*, that Rariden, who was the attorney for the Indians, had been bribed by the creditors; *fourth*, that the Indians had special confidence in him, as they had never said a word about it until he was appointed to office; *fifth*, that he should "*be called upon at the first council that is held to make a full explanation of this matter to the tribe;*" and *sixth*, that he wanted to have it "precisely right." With such a foundation as this for his action, he supposed he should have no difficulty in accomplishing his purposes; for it is very fair to presume that he was fully informed of the fact, that it was by no means difficult to excite prejudices *here* against all those who traded with Indians. How he accomplished his object will be seen.

The Commissioner of Indian Affairs, on the 18th July, 1845, replied to Sinclear's letter of the 7th July, by enclosing him a copy of a decision made by the Secretary of War, in 1842, in which, at the instance of the then commissioner, he declined to have any thing to do with the agreement between the Indians and their creditors. He also informed him of the fact that this decision had been adhered to by Mr. Wilkins, Secretary of War, in February, 1845, and furnished him with the amount awarded by the commissioners Bloomfield, Clark, and McCarty, and the balance due by the Indians after the payment under the treaty, which balance was, as already stated, \$128,907 40. [See exhibit D.]

In the decision of Mr. Spencer here referred to, that gentleman took it upon himself to decide that "*the Indians are not in fact indebted beyond the sums*" previously settled—that is, beyond the payments made under the treaty. He could not have known any thing about their indebtedness, for it was not examined here or by him; but this unfounded assumption furnished the basis of the determination, fully expressed in this decision, to enable the Indians, by all the means in *his* power to *cheat* their creditors! It is not necessary to comment here upon either the justness or *morality* of this decision. It is sufficient only to remark of it, that it was just such a decision as suited the purposes of Sinclear. It is evident that it was used by him as the means of consummating his subsequent fraud.

Some time before the payment in the fall of 1845, Sinclear and one Madison Sweetzer, assembled the Indians in *council*, having, no doubt, received Mr. Spencer's decision. They "*advised them to repudiate and refuse to pay any more*" on the agreement of 1842, and "*proposed to relieve them of it entirely, if the nation would pay them one instalment, that is to say \$12,500.*" This is proven by George Hunt, a member of the tribe, and who, for some years, acted as interpreter. [See his deposition, exhibit E.] To this proposition the Indians were, for a long time, unwilling to consent, but finally yielded to the persuasion of these rascals, and did consent to repudiate. The result was,

that, at the payment in October, 1845, Sinclear told the creditors "*that if they would agree to give up the obligation they then held, and would take a new one for six yearly instalments more, he would consent to it; but if they would not do this, he would not permit the nation to pay another dollar, and they never should be paid.*" [See Hunt's deposition, exhibit E.]

When this dishonest proposition was made to them, the creditors refused it; but it was persisted in by Sinclear. They found themselves completely in his power, as he was an officer of the Government, and had the absolute control of the money. They knew that, if he chose to do so, he could divide it amongst the Indians, and thus prevent them from getting the \$12,500 then due them, and, perhaps, place the remainder of their debt in such a condition as to render it uncertain whether they would get any more of it. At all events, he could put them to great trouble and expense. Under this condition of affairs they resorted to the advice of the only gentleman then upon the ground who was connected with the Federal Government—the honorable E. A. Hannegan, who was, at that time, a member of the U. S. Senate. By him they were advised to consent to the arrangement, as "*that, under the circumstances it would not destroy their rights, and as the whole subject would be investigated by the Government, that they would be allowed all that was due them under the original national obligation, and that being present, he would represent the transaction to the Government, and request that the surrender of their rights, against their sense of justice, and forced from them by the improper use of the influence of said officer, might not be considered as a release of these four instalments as they were equally just and owing as the other six instalments.*"* This advice of Mr. Hannegan induced the claimants to consent to receive the \$12,500 then due them upon the terms proposed by Sinclear. It was then paid them, and a *new* agreement made and signed by the Indians, setting apart \$12,500 for only six years, and providing that the same should be in "*full payment and perfect satisfaction of all claims and demands, &c.*" The creditors also signed an agreement by which they consented to the arrangement, but not without expressly stating that they would still hold the Indians *honorably* bound. [See exhibits G and G 2.]

But Sinclear's purposes were not fully executed by requiring the creditors to give up these instalments. He persuaded the Indians to provide for the payment of the claim of *Switzer*, his partner in rascality, by telling them that the payment of it would come out of the creditors and not them. This claim had been already rejected by the Government, and Sinclear must have known that it was fraudulent.

By reference to the testimony of Mr. Hannegan it is seen, that Sinclear, the more effectually to accomplish his design, deceived the claimants in relation to the instructions he had received from the Government. He says, Sinclear "*proposed to divide all the money out to heads of families to prevent any other payment.*" When this matter

[*See Hannegan's deposition, exhibit F.]

was afterwards brought to the notice of the Commissioner of Indian Affairs, he promptly declared that "*Mr. Sinclear has not received instructions from this office to pay the annuities in any other manner than heretofore, and his undertaking to pay them by heads of families is unauthorized.*" [See exhibit H.] From what Mr. Hannegan says, however, it is very evident that he intended to pay the money out *per capita*, had not the creditors assented to his proposition.

After Sinclear had succeeded in his designs, and had forced the claimants to consent to the terms of the *new* agreement, they laid the matter before the President. As the Senate had struck out of the treaty the provision for the payment of other debts besides what were paid by the sum set apart, the President was not inclined to act in the matter until the authority originally provided for in the treaty was restored by the Senate. Accordingly the Senate, on the 24th February, 1846, passed a resolution, giving him discretionary power to do what he thought just and proper in relation to the debts. [See exhibit I.]

The claimants brought the matter before the President under this resolution, and urged him to ratify the agreement of 1842, and order the payments to be made them according to its terms. The President decided that, inasmuch as there was no proof of fraud before him, he was compelled to recognise the agreement of 1842, made at the instance of Sinclear, and to order the payments to be made according to its provisions. Besides the argument made to the President in behalf of the original obligation, he was solicited by the entire delegation in Congress from Indiana to recognise and confirm it—they alleging many reasons why it should be done. [See exhibit K.] They called upon the President in person, and one of them, the honorable John Pettit, states the result. He says, "after several interviews with the President on this subject, he stated to this deponent, and the other members of the Indiana delegation then present, that he had examined the whole case with care, and that he 'would *cheerfully accede to our request, and approve and confirm the original obligation of the 24th October, 1842, and BELIEVED IT WOULD BE RIGHT TO DO SO, were it not for the release then on file in the department, and to which his attention had been called, signed by the said claimants against said claim;*'" but that, "*as a lawyer, he felt bound to respect the release, &c.*" [See Mr. Pettit's deposition, exhibit L.]

Acting upon the principle here stated, the President decided to confirm the new obligation, that is, the one obtained by Sinclear, requiring that it should be executed and paid, according to its terms, when the creditors should have filed with the Secretary of War "their acceptance" of it, "in full payment and satisfaction of all claims and demands on their part, arising or in any way originating prior to the 25th December, 1841, against the said tribe, or any one or more individuals thereof, and forever discharging and releasing them from the same, and all manner of liability to said creditors, or any one or more of them, which may have accrued or originated before that period." [See exhibit M.] But the President promptly rejected the fraudulent claim of Switzer,

which Sinclear had provided for, and of which, if allowed, he was to have had a part.

At the time of this decision of the President, the creditors earnestly *protested* against it, and maintained before him that it ought not to bar them of any subsequent remedy which they might have for their debt, upon proof of Sinclear's fraud and dishonesty. In a letter of G. W. Ewing, (who represented the creditors,) on the 3d day of March, 1846, he said, "all we ask is, that we may *hereafter*, (if we desire to do so,) have the right to appeal to Congress for proper redress of grievances, if it be true that they exist. And we confidently hope that this just privilege will not now be denied us, and that we will not be required, under circumstances amounting almost to *coercion*, to surrender all *future rights to remedy*."

"We ask this that we may have *hereafter* an opportunity of showing, that an *unholy conspiracy* was formed to destroy our rights and to take advantage of our necessities. That we were greatly injured by that conspiracy, and our rights *unjustly forced from us*. That to take such advantage and by such means to destroy the citizens' rights, is oppressive and roguish. *These things we believe have been done through the agency of unprincipled and dishonest white men.*"

This letter (now on file) was dated the 3d March; the decision of the President was on the 5th March. It was, therefore, a distinct assertion of their right to *future* relief. It positively asserted that, whatever the decision might be, they would not "*surrender all future right to remedy.*"

Notwithstanding their protest, however, the order of the President was executed by the Commissioner of Indian Affairs, and they were required, *before they could receive any more of their money*, to execute such a receipt as the President had prescribed, carrying out the policy of Sinclear. The creditors all signed it, rather than not receive the sum set apart in the second obligation of the Indians, as, if they had not done so, the decision of the President would have deprived them of the whole. [Exhibit M 2.]

Since this arrangement they have received the instalments, of \$12,500 each, for the years 1847, 1848, and 1849, leaving that for 1850 yet due, upon the new obligation. When the instalment for 1850 is paid them, they will have received on their whole debt only \$75,000 under the new obligation, and three instalments, or \$37,500 on the old. This makes an aggregate payment of only \$112,500—when their whole debt, as provided for by the old obligation, was \$187,500—thus showing a clear loss to them, by the dishonesty of Sinclear, of \$75,000.

The foregoing is a succinct statement of the facts as they occurred from the beginning of this transaction up to the execution of the receipt by the creditors. Before I proceed to show why that receipt should be set aside, and should not bar the creditors from yet receiving the amount out of which they were defrauded by Sinclear, I propose to show that the *original* debt was just for the whole amount covered by the old obligation.

The Government encouraged the creation of these debts; especially licensed the claimants, and forbid others to trade with the Indians; used the existence of these very debts as a part of the means employed by the treaty-making power to *consummate* its purposes; has had this advantage and benefit from the creation of the debts, and is now, by every principle of good faith and common honesty, bound to sustain the claimants, and aid them in the collection of what is due them; seeing only that no imposition is practised—a duty fully, fairly, and honestly discharged by the appointment of the commissioners entrusted with the examination of the extent, grounds, and equity of the debts.

The commissioners were created in obedience to the treaty, acted under its injunctions, received their authority from all the parties to it, held their investigations openly in the presence of the debtors, (the entire nation being convened and fully represented by their chiefs, and defended by able counsel;) their decisions had, therefore, all the dignity, form, deliberation—gave to the parties interested every opportunity, of which they availed themselves, of all the aid of able counsel, and all the advantage of every available topic of defence known or exercised in any of our judicial tribunals, and deserve, therefore, all the respect—due to the most solemn legal adjudication. So manifest, indeed, was this to the nation and their counsel, that these decisions of the commissioners received their unqualified sanction and approval, as expressed in the said original obligation. [See hon. J. Rariden's statement, exhibit W.]

The whole subject of intercourse and dealing with the Indian tribes is taken by the Government into their own hands and management; none may deal with them without the license of the Government. The Government discourage and prohibit all control of them but by agents of their own; all influence over them, but on the part of such as are privileged by the Government to trade with them, and are obedient to the laws and regulations instituted for their management.

They are considered in some respect independent nations; it therefore peculiarly behooves the Government to be a party to and sanction settlements of debts due by them to the citizens, and especially to aid and to favor such arrangements as they may enter into, to do justice to those who deal with them, and whose actions and dealings have been according to law, and have undergone the legitimate scrutiny, sanction, and revision of the proper agents of the Government.

These views are so plain, that it is difficult for ingenuity to discover arguments to illustrate matters hardly capable of being misunderstood, or rendered less capable of misapprehension.

Under the treaty of 1836, between the Government of the United States and the Pottawattomies, the debts of the citizens were secured by a like order, to which the Government then gave their cordial and prompt assent, and in pursuance of which the claimants were honorably paid. [See exhibit N.]

This occurred in the year 1838, during the administration of Mr. Van Buren, and therefore sanctioned by him. When the War Depart-

ment was presided over by the hon. Joel R. Poinsett, under whose personal revision and action this matter transpired, and which, therefore, claims for its propriety and legality all the authority due to his high character. The circumstances of the settlement of their debts by the Pottawattomies, then, and this original one of the Miamies, are identical, as may be seen by reference to the records on file in the War Department, and to documents accompanying this argument.

The claims against the Pottawattomies had been ascertained and reported on by hon. John W. Edmonds, the sole commissioner under the treaty. The money *specifically appropriated had been exhausted*, leaving balances unpaid amounting to some fifty thousand dollars. The Indians petitioned the Government (see exhibit O,) to pay the said balances, with interest, out of annuity moneys accruing to them, and to pay the same at Washington city. Col. Pepper, the agent for said Indians, approved and recommended the payment, (see his letter marked P,) dated 18th Sept., 1838; (see also the letter of Gen. Tipton on the same subject, of the 25th Sept., 1838, marked Q.)

The Secretary at War, moved by these suggestions, and the propriety of the case, endorsed his approval on the back of the petition, and caused the payments to be made accordingly. The claimants in proper time received their just demands, *with interest for delay*.

The Indians were speedily removed, and all the parties, the Government particularly, were satisfied; most of the claimants, (and especially G. W. Ewing,) lending their hearty aid and co-operation. [See exhibits R, S, and T.]

Let us run the parallel between the two cases. In 1838, the Pottawattomies petitioned the Government to pay balances existing against them over and above the treaty provisions. So with the Miamies, in their original obligation. The Pottawattomies then prayed the payments to be made out of annuities accruing to them to be paid at Washington city. So with the Miamies. The debts in each case were ascertained by commissioners, duly and alone authorized by the treaty to pass on the same. The agents of the Government, acting as guardians of the Indians, and officially and personally well informed on the subject, and clothed with the confidence of the Government alike in each case, sanction and recommend the payment in the manner indicated in the two petitions. The request of the Pottawattomies, as a measure alike of justice, prudence, and expediency in view of their contemplated removal, was promptly acceded to and honorably complied with. Wherein does justice, prudence or expediency dictate, in reference to these Miamies and their creditors, who were similarly situated, any other course than the one pursued towards the Pottawattomies? All the past usages of the Government, and the precedents in like cases, are to the same effect.

It is said that the Government are trustees for the Indian tribes, and bound to protect them. This is true to some extent, and this protection has been liberally extended to them. Commissioners have been appointed, clothed with the confidence of the Executive, with plenary

powers, and full opportunity to examine, adjust, and adjudicate the demands against them. These commissioners have adjudged the debts of these claimants to be just. The Indians have assented to their report, and pray the Government to set aside a part of what is due them for the payment of their indebtedness under that report. Every possibility of injustice or injury to the Indians indebted has been most cautiously obviated. Our own citizens certainly have, at any rate, a claim to some protection from the Government.

The Government are asked to do no violence; not even to institute any action in favor of the claimants, but barely to sanction what they have taken every legitimate step to assure themselves is just; not even to *compel*, but barely to *allow* the Indians (who have expressed such a desire,) *to be honest*.

These claimants feel strongly, are deeply interested, and speak plainly; they have embarked large investments in the trade which they have prosecuted; they have incurred extensive liabilities; and their fortunes and their credit are to sink or to be sustained by the treatment which they are to receive. The trade in which these debts have been incurred has been perilous, laborious, and has consumed years of the prime of their existence. It has been conducted with the sanction of the Government and according to law; the Indian indebtedness was distinctly a measure of Indian policy, and the protection of these debts is a matter to which the public faith by former precedent and natural justice is distinctly pledged.

A reference to the agreement of Oct., 1842, will show most of the material facts involved in the matter, which are substantially—first: That these debts in law and equity were certainly due, and ought to have been paid; that their justice was admitted by all; by the Government—by its agents, in its treaty—and by the Indians themselves. That the payment was requested by the Indians; that such payment by the Government would not have been unlawful, inexpedient, or improper, but warranted by precedent in a case and cases precisely similar.

On the contrary, that to have withheld the assent of the Government to the Indians, was contrary to precedent, and a positive injury from a Government instituted not to injure, but to aid and protect its citizens; that to refuse the request now made, would be to do great injury to the claimants; and positively, by the Government agency and action, to deprive the claimants of their principal remedies for debts contracted, in some degree, at the instance and for the use of the Government, and by means of which treaties have been effected, and measures of public policy carried out.

I have appended a table showing the claims filed before the commissioners, the amount allowed, &c. [See exhibit U.] Also, a table showing that the application of the \$12,500 for *seventeen* years, would not pay the balance found due, with *six per cent. interest*, but would leave an unpaid balance of \$5,013 20. [See exhibit V.] By this calculation it will be seen that, even under the first obligation, they will

only receive about *four* per cent. interest upon their debt, as ascertained by the commissioners.

Having thus shown that the original debt covered by the first obligation was just, it now only remains to show that the receipt executed by the creditors, by order of the President, (based upon the second obligation,) and the second obligation, should both be set aside as null and void, and the first obligation restored.

I apprehend no difficulty in the correct settlement of the law, as it regards the effect of a *receipt*. I understand it to be of the same weight as an admission—as presumptive proof—and that it may be explained by parol, or rebutted by mistake, falsity, or fraud. *Story on Con.*, § 981. Such circumstances as would lead a court of equity to set aside a contract, such as fraud, mistake, or surprise, may be shown at law to destroy the effect of a receipt. 1 *Green. on Ev.*, § 305.

The depositions of Mr. Hannegan, [see exhibit F,] and of George Hunt, [see exhibit E,] already referred to, show that Sinclear acted fraudulently in coercing the creditors to consent to the new arrangement. In addition, there are the depositions of John Bouse, an educated half-breed of the tribe, [see exhibit X;] of Allan Hamilton, esq., who was, for some years, the Government sub-agent, [see exhibit Y;] and of James T. Miller, [see exhibit Z.] There is also the sworn statement of G. W. Ewing, of W. G. Ewing, and of the hon. Cyrus Taber, who are all fully sustained by the witnesses. [See exhibits 1, 2, 3.]

There is also the deposition of Henry C. Rhodes, in which he states the character of George Hunt, and John Bowie, [see exhibit AA,] and a letter from the hon. G. N. Fitch, of the present House of Representatives, certifying to the character of Henry C. Rhodes, and James T. Miller. [See exhibit BB.]

The deposition of Joseph Scott, [see exhibit CC,] shows the fraudulent character of the debt of Switzer, which Sinclear fraudulently endeavored to have paid that he might share the profits of the speculation; if any evidence of this is required, after its rejection by the Government, Smallwood Noel, esq., the present receiver of public moneys at Fort Wayne, certifies to the character of Joseph Scott and James T. Miller. [See exhibit DD.]

I regard it as wholly a work of supererogation to offer testimonials of the character and standing of the Hon. James Rariden, than whom there does not live a more honest man. But as the scoundrel Sinclear has, to furnish a pretext for his own rascality, accused him of dishonesty, it is due to him that I should place on file the opinion which is entertained of him by those who know him best. I have, therefore, obtained the letters of the Hon. O. H. Smith, [see exhibit EE;] Hon. C. B. Smith, [see exhibit FF;] of Thomas Dowling and J. H. Hager, esq's, [see exhibit GG;] of A. W. Morris, esq., [see exhibit HH;] and of S. Meredith, [see exhibit II.]

As my chief object has been to arrange the facts in this case so that they may be easily comprehended, I shall occupy but a short space in

the argument of it. There is but one question, and that is—whether or no the *release* signed by the creditors is valid. If it is, there is an end of the matter: if it is not, then they have been cheated out of \$75,000. It will be seen, therefore, that the case is in a very small compass.

It cannot be disputed that, at the date of the *first* agreement of the Indians they owed their creditors the sum which, by that agreement, they undertook to pay, and *asked the Government* to pay for them—that is, the sum of \$187,500. All the facts in the case show this. Nor can it be disputed that when the creditors are paid all that by the *second* agreement they are entitled to receive, they will have been paid only \$112,500, which is \$75,000 less than their debt.

The following points are clearly established by the proof:

1. That Sinclear, with a *fraudulent* design, persuaded the Indians to repudiate these six instalments.
2. That he *corruptly* received pay from the Indians for cheating these creditors.
3. That he *fraudulently* combined with Switzer to cheat both the Indians and the creditors.
4. That he used his office as the means of *coercing* the creditors to consent to the new arrangement.
5. That the creditors only consented to that arrangement upon being advised by a United States Senator present, that it would be disregarded by the Government.
6. That the President of the United States, when he ratified that arrangement, acted only upon the case before him, and could not take notice of Sinclear's fraud, as it was not then proved.
7. That, at the time of the ratification by the President, the creditors expressly reserved the right of resorting to whatever *future* remedy they might have.

These facts being established, it is, beyond question, both legal and just, that the rights of the creditors under the original agreement should be restored; and that the release should be set aside. I maintain the following legal propositions, to wit:

1. That the fraud here proven vitiates the whole transaction.
2. That it is sufficient at law to set aside every thing that was done by Sinclear.
3. That as the consent of the creditors was coerced from them by a Government officer, who acted fraudulently, they are not bound by it.
4. That as the decision of the President and the receipt executed pursuant to it, were based upon the acts of Sinclear, which are proven to have been fraudulent, they are both void.
5. That the receipt is only *prima facie* evidence of payment at best, and the facts show that it was wholly without consideration.
6. That being without consideration it is not binding.

Now, unless the Government of the United States is willing to license and justify *repudiation* of honest debts by the Indian tribes, there can be no hesitation about this case. The late Commissioner of Indian Af-

fairs instructed them that they were not bound to pay their debts, because there was *no law in the Indian country!* But, I suppose, there are very few men in the country who are willing to adopt such a sentiment. If the Government, as the pretended guardian of the Indian, shall act in accordance with it, the process of payment will be very short; a simple act of *repudiation* will accomplish it. What, then, will become of the Indian tribes? The licensed traders will be driven from amongst them; and they will become the victims of that extortion which dishonest traders, without license, habitually practise upon them, and which they accomplish by making them drunk. Or, the Government itself must supply them with goods, which experience has shown is only a different mode of imposition. Last year, the goods furnished to the Indians within the St. Louis superintendency were opened by the superintendant before delivery to the Indians, and I have the authority of that gentlemen, (now in Washington,) for saying that they were almost worthless; far inferior to any thing of the kind he had seen. He hesitated whether he should not condemn them; yet, doubting his authority, he did not. Yet these goods were supplied by the contractor for the present year, and inspected by a clerk now in the Indian office. Such difficulties and impositions will continually occur, unless the Government shall give to the licensed traders just protection. It is that only which these creditors now ask.

The Miami Indians are the wealthiest tribe in the northwest; and have ample means to pay this debt. By the 2d article of the treaty of 1840, *twenty* annual instalments of \$12,500 each, were provided for them, independently of the other large and permanent annuity. And from this special fund, these creditors ask that this debt may be paid; as it will be seen, that such were the provisions of the original agreement. The whole nation consists now of only *four hundred and seventeen* souls; their decrease in numbers having been very rapid. Their permanent annuity is now \$26,000 about \$62 per head; while a number of the tribes receive less than \$5 per head. Besides this, there will enure to the nation, from the instalments provided for in the 2d article of the treaty, five instalments, or \$62,500, *after these debts are paid*. A great many of them have large individual reservations of land, which make them wealthy; some of them being amongst the most valuable lands in Indiana. One family owns *eleven* sections, being 6,820 acres, of lands equal to any in the world. Lafontaine's estate is supposed to be worth from \$200,000 to \$300,000; and Godfroy's from \$60,000 to \$80,000.

In addition to all this, I believe they receive other means of support from the Government, such as mills, millers, blacksmiths, farmers, and an education fund. So far as their condition, then, is concerned, there is every reason why they should be required to pay their honest debts.

R. W. THOMPSON,

Att'y for the creditors.

WASHINGTON, 27th February, 1850.

APPENDIX.

[Exhibit 1.]

To the President of the United States:

The undersigned, George W. Ewing, a member of the firm of W. G. & G. W. Ewing, on behalf of that firm and the other creditors of the Miami nation of Indians hereinafter mentioned, most respectfully represents as follows:

On the 28th November, 1840, the United States made a treaty with the Miami nation of Indians, which stipulated that \$250,000 should be applied "to the payment of the debts of the tribe." This sum was increased to \$300,000 by the Senate of the United States, and afterwards consented to by the Indians.

The treaty provided that commissioners should be appointed by the United States, "to investigate all claims against any and every member of the tribe," between the 6th Nov., 1838, and the date of the ratification. Three commissioners were appointed, who, after careful investigation, reported an aggregate indebtedness of \$388,907 40, exclusive of \$40,000 due to members of the tribe. As the treaty provided that this \$40,000 should be paid out of the sum set apart for debts, there was but \$260,000 left to be applied to the payment of those reported by the commissioners. This sum was applied, and after its payment, there was a balance due the creditors, according to the report of the commissioners, of \$128,907 40.

But the actual balance due was greater than this. After the report of the commissioners had been made, several of the creditors resisted its confirmation, upon the ground that their accounts had been wrongfully reduced. Upon satisfactory proof, the Commissioner of Indian Affairs, under the direction of the Secretary of War, increased the allowance to the creditors nearly \$40,000; and in the case of W. G. & G. W. Ewing alone, nearly \$20,000.

As the Senate had struck out a provision in the treaty which stipulated that, after the \$300,000 were exhausted, the remainder of the debts should be paid out of the annuities of the tribe, the creditors were required to look to the Indians for it. Accordingly, the creditors and Indians met in 1842 for the purpose of settling the balance. The creditors claimed the additional allowance made them by the Secretary of War and the Commissioner of Indian Affairs, and the Indians insisted that they should only be required to pay the balance due, according to the report of the commissioners. This disagreement was finally settled by the acceptance, on the part of the creditors, of a proposition made them by the Indians—which was, that they should be paid \$12,500 a year for fifteen years; which was at the rate of about *four per cent.* interest upon the \$128,907 40.

The Indians, accordingly, executed their national obligation, on the

24th of October, 1842, by which they set apart \$12,500 each year, for fifteen years, for the payment of this debt, and requested the Government of the United States to retain the same, from year to year, in the Treasury, and pay it to their creditors, as therein specified. They expressly provided that the payment of this sum should be in full discharge and satisfaction of all claims and demands against them. The aggregate amount herein provided for would have been, at the end of the fifteen years, \$187,500.

With this arrangement the creditors and the Indians were all satisfied. The Indians so far executed the agreement on their part as to cause the sub-agent of the United States to pay three of the instalments due on said obligation—that is, the sum of \$37,500. During this period not a word of complaint was heard from them, in relation to the justness of this settlement, so far as the undersigned ever heard or knows. He is prepared to show, by the deposition of Col. Allen Hamilton, who was their sub-agent at the time the obligation was executed, and up to the spring of 1845, that, during his connection with the tribe, he heard no such complaint; but that, on the other hand, they were entirely satisfied. He can also prove it by others.

In June, 1845, Joseph Sinclear was appointed sub-agent to the Miamis, and immediately set on foot a system of the most corrupt means to cheat and defraud said creditors and to enrich himself. On the 7th July, 1845, (only a few days after he was appointed to office,) he forwarded a copy of the agreement of the 24th of October, 1842, to the Commissioner of Indian Affairs, and represented to him that it was "*the source of much dissatisfaction on the part of the Indians*"—that they asserted it to be "*for a larger amount than was due the traders*"—that it "*was never correctly interpreted to them,*" and that "*the transaction was fraudulent from the beginning.*"

He went farther than this. The hon. James Rariden, of Indiana, a gentleman of the highest character for moral worth, had been the attorney of the Indians at the time of this settlement, and had carefully guarded their interests. Sinclear, in his letter to the Commissioner, represented the Indians as charging upon Mr. Rariden that he had been *bribed by the creditors*, and had aided in the perpetration of the fraud against them!

The undersigned is now prepared to prove that all these statements of Sinclear are untrue, and to show, conclusively, that they were merely employed by him to aid him in the perpetration of the fraud hereafter exposed. They were used to prepare the Department here for what he might subsequently find it his interest to do. This will appear from the following additional facts.

The undersigned is informed and believes, that soon after the said Sinclear received the said appointment of sub-agent, he fraudulently combined with one Madison Sweetser to procure the allowance by the Indians of a fraudulent claim in favor of said Sweetser, which had been previously denied by the Indians and rejected by the commissioners. He is also informed, and believes, that the said Sinclear and Sweetser

combined and confederated together fraudulently to induce and persuade said Indians to repudiate a portion of the debt provided for by their aforesaid agreement; to cheat both said creditors and Indians, and to make money themselves.

He is prepared to prove, that "soon after" said Sinclear was appointed sub-agent, he and said Sweetser, counselled and advised said Indians "*to repudiate and refuse to pay any more on said national obligation*" of the 24th of October, 1842, and proposed to relieve said Indians of it "*entirely, if the nation would pay them one instalment, that is to say, \$12,500 !*"

He is prepared to prove, that most of the chiefs positively objected to this proposition, and insisted that the whole sum should be paid, as they had confidence in the report of the commissioners, but that they were persuaded by Sinclear and Sweetzer to repudiate a portion of said debt.

He is prepared to prove, that said Sinclear positively refused to let any more money be paid on said contract, unless the claimants would relinquish six of said annual instalments.

He is prepared to prove, that said creditors were coerced by said Sinclear to surrender the original agreement, and suffer another to be executed for only six more annual instalments, as the only means of getting the \$12,500 which was then due them.

He is prepared to prove, that when the said new obligation was executed, the said Sinclair caused provision to be made in it for the payment of the aforesaid fraudulent claim of said Sweetser.

He is prepared to prove, that it was then well understood and believed, that Sinclair and Sweetser were to divide the proceeds of this fraudulent claim between them, and that the Indians were only induced to allow it in consequence of being told that it would come off the *creditors* and not the nation.

He is prepared to prove, that said Sinclair and Sweetser were to be paid, in addition to this fraudulent claim, the sum of one thousand dollars, for preventing the payment of the difference between the two obligations.

He is prepared to prove, that the chiefs of the nation afterwards paid said Sinclear \$200 on account of this agreement,; and that it was agreed that the remaining \$800 should be paid him at the next annual payment in 1846, "*provided all was fixed up right at Washington.*"

He is prepared to prove, that said Sinclear, besides his compensation as sub-agent, charged, and was paid by, the Indians, the sum of \$150 for "*counting*" their money; that he paid some other person, unknown to the undersigned, an additional \$100 for "*counting*" said money, and fraudulently increased the expenses of an annual payment to said Indians to over \$3,000, when it was not usual for such payments to exceed \$600 or \$700.

The undersigned was not present when the following occurrences took place, but he is informed, and believes, that what he now states in relation to them is true.

At the payment to the Miami Indians in 1845, the said Sinclear re-

refused to permit the Indians to make their payment to their creditors, under their obligation of the 24th of October, 1842, and made a corrupt and fraudulent agreement with them to cheat and defraud the said creditors out of a large portion of their debt. He coerced the said creditors to consent to the repudiation of a part of the debt by the corrupt exercise of his official power. He told them that, unless they would consent to accept a new obligation for six additional instalments only, he would not pay them the instalment of that year. They advised with the hon. E. A. Hannegan, a senator in Congress, who was present, and were counselled by him to accept this proposition, as, when the Government were informed of the facts, it would not hesitate to disregard the last agreement, and execute that of the 24th of October, 1842. Under the influence of the official authority, and this advice, the creditors agreed to receive the annual instalment for that year upon the terms prescribed by Sinclear. Accordingly, pursuant to those terms, the Indians, under the direction of Sinclear, executed to the creditors another national obligation, setting apart \$12,500 a year for only *six* years, and requiring that this sum should be received in full discharge of the entire original debt, in lieu of the amount provided by the aforesaid original obligation. There was no release of the difference between the amounts specified in the two obligations, except upon the terms imposed upon them by Sinclear.

After the making of this last obligation, the creditors came to Washington, and petitioned the President to confirm the aforesaid original obligation, and to disregard and set aside the last one, as the same had been fraudulently forced upon them by Sinclear. The Senate of the United States passed a resolution, as a part of the treaty-making power, authorizing the President to use his discretion on the subject; and he, under this resolution, finally confirmed the *last* arrangement. The reason assigned by the President for this decision, (as your memorialist will prove,) was, that as the creditors were not then prepared to *prove* the alleged fraud against Sinclear, he, as a lawyer, was bound by the terms of the last arrangement. Carrying out these terms the creditors were compelled to receive what money was subsequently paid them by signing a receipt that it should be in full of the original amount. But they did this, protesting at the time against its justice, and reserving the right, by subsequent proof, to show the fraud of Sinclear, and to endeavor to set aside the last obligation, and restore the first. This proof they have now obtained, and are prepared to show that all the material allegations herein alleged are true.

The undersigned, on the part of his firm, and the other creditors, respectfully asks that the President will hear his said proof, examine the case, and restore their rights under the aforesaid original contract. Their loss, by the fraudulent conduct of said Sinclear, has been \$75,000, unless they can now have justice done them. They feel confident that it can be no part of the policy of the Government to deprive them of this large sum, as they also do, that the President will be ever ready to condemn, in the most emphatic manner, all such fraud as that which has characterized the conduct of Sinclear.

All of which the undersigned most respectfully submits to the President.
GEO. W. EWING.

R. W. THOMPSON,
Attorney for the creditors.

DISTRICT OF COLUMBIA, *county of Washington, ss.*

Be it remembered, that this day personally came before me, the undersigned, a justice of the peace in and for said district and county, the aforesaid George W. Ewing, who, being by me duly sworn, says that he is a member of the firm of W. G. & G. W. Ewing, and that the matters and things in the foregoing memorial, so far as the same are stated of his own knowledge, are true; and so far as they are stated to have been derived by information from others, he believes them to be true.

Sworn before

B. K. MORSELL, *J. P.*

[Exhibit 2.]

STATE OF INDIANA, *Allen county, ss.*

Personally appeared before me, the undersigned, a notary public in and for said county, William G. Ewing, of lawful age, and known by me to be a creditable citizen, who being duly sworn deposeth and saith: That he was at the Forks of the Wabash, in October, A. D. 1845, and was present at the time of the payment to the Miami Indians of that year, made by *Joseph Sinclear*, their sub-agent, when, by the corrupt use of the influence of the Government over said Indians, then used by said Sinclear, as said deponent believes, he caused a part of said Indians to refuse to make the annual payment of \$12,500, due on their national obligation, dated the 24th October, 1842, to sundry claimants under the treaty of November, 1840, for balances reported to be due them by the Board of Commissioners under said treaty, until said obligation was given up and another taken for only six instalments; and inserting in said new agreement an allowance of \$4,014, for one Madison Sweetser, a fraudulent claimant, whose claim had been disallowed by said Board of Commissioners, and rejected by the Government and said Miami Indians, and was notoriously false and fraudulent.

Some time prior to said payment, deponent had been informed that said Sinclear had made such representations to the Government as to procure instructions of such a character as to enable him, if he saw proper, to prevent the said payment of \$12,500; and knowing said Sinclear was intimate with, and much under the influence of, said Madison Sweetser, both being bankrupts, and addicted to gambling, and unprincipled and dishonest, deponent believed that the design was to compel the payment of said Sweetser's false and repudiated claim, and to be shared by said Sweetser and Sinclear.

Therefore, deponent called upon said Sinclear, and stated to him that said Sweetser was making efforts and intermeddling with the Indians to

induce them, or a part of them, to refuse the payment of said \$12,500 due for that year, unless his rejected claim shared therein.

Deponent then informed Sinclear that, upon the records of the Government, said Sweetser's claim was condemned, and recorded as *false and fraudulent*; and that, in deponent's opinion, it was a departure from duty for any public officer, either directly or indirectly, to enforce the collection thereof; and then informed him that said claim was utterly false and fraudulent; for that, in the fall of 1840, when it was pretended to have been made, that said Sweetser had no Indian goods, but that he had used some drunken Indians to purchase goods, and took possession of them without making payment therefor; had pretended to sell them to other drunken Indians, and taken their note therefor for some \$9,000, and at the same time had kept most of the goods, and in the night time had carried them to his house, where they had been seen in his house; that this most infamously fraudulent transaction had become public and notorious; and deponent protested against the influence of the Government being used directly or indirectly for the collection of any of said corrupt claim, which then in this country was considered to be *notoriously false*.

Sinclear replied to deponent, in substance, that he was not to be intimidated or dictated to in his course, and should pursue such an one as he saw proper under his instructions; and that he believed said Sweetser's claim to be as good as the others under said treaty. Deponent again referred to the fact that it had been disallowed by the commissioners, and by the Government also, and upon all occasions rejected by the Indians; and that they had particularly objected to it when they gave their obligation for the balances found due by the commissioners, with an allowance for interest for the deferred instalments. Soon after this, deponent, as agent for Chappeen, (one of the Indians Sweetser got goods of,) caused suit to be brought to recover pay for the goods. Said Sinclear was very indignant, and required deponent to dismiss the suit, unless he entered security for costs; thus aided, the fraudulent Sweetser induced the poor Indian to dismiss the suit, and hide from a thorough exposure of his villany.

When the Indians had assembled, deponent learned from interpreters that part of the lower band had agreed with said Sweetser, and, as it was believed, with the concurrence of said Sinclear, that for the \$12,500, then due claimants, that said Sweetser and Sinclear would defeat or destroy said national obligation, and that no payments need ever be made thereon.

Lafontaine and others of the principal chiefs were opposed to this, and persisted in paying the balances found due by the commissioners, as agreed upon in their national obligation of the 24th October, 1842; and doubted the authority or ability of said Sinclear or said Sweetser to defeat said obligation, (although said Sinclear advised them in council not to pay it,) and feared for their personal liability.

This disagreement was kept up by said Sinclear for a considerable time; and said Sinclear made several efforts to make the payment to

the Indians, but the chiefs did not agree to receive the annuities. In the mean time the honorable *E. A. Hannegan*, then United States Senator, arrived at the payment ground, when the principal chief, La-fontaine, complained to him of the conduct of said Sinclear; that he and the principal chiefs desired to pay, according to their national agreement, and according to the directions of their late great chief, Richard-ville, the balances of the commissioners' award under the treaty of 1840, as they had adjusted it, but that said Sinclear used the influence of the Government to prevent part of the lower Indians agreeing thereto.

Soon thereafter the claimants were informed, that if they would give up their national obligation of the 24th October, 1842, and accept one for only *six annual instalments*, or \$75,000, and permit said *Sweetser's* claim to draw out of said \$75,000, in instalments with other claimants, the amount of \$4,014, that said *Sinclear* would consent thereto. Deponent and other of the claimants consulted with the honorable *E. A. Hannegan*, and he advised them for the present to accede to the proposition, and remove further difficulty in the payment of the \$12,500, then due on said national obligation, and to appeal to the Government therefrom; and that he, said *Hannegan*, would represent to the Government that said claimants had been *coerced* by the improper influence of the Government, exercised over said Indians by said *Sinclear*, by means of his office of sub-agent; and that their *release*, signed under such circumstances, would be set aside, disregarded, and the claimants would be paid as per the national obligation of the 24th October, 1842.

Confiding in the opinion of the honorable Senator, and believing that his representations of this nefarious and corrupt conduct of *Sinclear*, in using the influence of the Government to deprive citizens of their rights, would induce the Executive to repudiate the *release* of said instalments, forced from the claimants without any good or valuable consideration, deponent was induced to join with other claimants in acceding to the proposition of only six instalments, and signed said release. And another consideration that induced deponent to do so was the infamous provision of \$4,014 for said *Sweetser*, which deponent believed, from the conduct of said *Sinclear*, he was to share with said *Sweetser*; and as said *Sinclear* thereby, as a Government officer, provided for the payment of a fraudulent and condemned claim, so proven by the records of the country, that this of itself would be sufficient, deponent thought, to establish the fraudulent character of the transaction and said release, and make it the duty of a pure and honorable Administration to repudiate it, and restore the claimants to their legal rights, and annul said release. Deponent believed that our courts of equity would have relieved against a release procured as this was, with a *fraud*, vile and corrupt, coupled therewith. Deponent did then intend, at a proper time, to appear and offer evidence to destroy said fraudulent release. Deponent believes that the first corrupt design of said *Sweetser* and *Sinclear* was to use the influence of the Government, by reason of said *Sinclear's* office as sub-agent, to get the whole of said \$12,500, and that part of the lower band of the Indians agreed thereto. Failing in this, they resorted to the frau-

dulent pretext of said Sweetser's villanous claim to get money; and, as a *color* to cover their real design, they insisted on the reduction to the six year's instalments, pretending to befriend said Indians!

Deponent was afterwards surprised to see that, although the \$4,014 was rejected by the Government, (and directed to be paid to the other claimants, and not to said Sweetser,) that the rights of the oppressed claimants were not restored in full. Why not refund this to the Indians, if claimants had full justice; and if in part only, why not restore them to their full rights? The conduct of the sub-agent, in providing for a condemned and fraudulent claim, being, as this deponent considered, gross and palpable evidence that the transaction was fraudulent and corrupt, and that therefore this fraudulent and mercenary procurement of said *release* should not deprive other citizens of rights awarded to them by the said Board of Commissioners, and by said national obligation of the 24th October, 1842. If said Sinclear acted corrupt in procuring \$4,014 to Sweetser, it appeared to deponent equally so to deprive citizens by coercion of their legal rights, secured to them in said national obligation.

Another circumstance connected with the foregoing payment induced deponent to believe, that said Sinclear upon that occasion acted corruptly. Thus, the expense of the payments when made the preceding years, by the former sub-agent, (Col. A. Hamilton,) had cost said Indians from five to six hundred dollars. Upon that occasion, (1845,) it was ascertained to be the extravagant sum of \$3,214, and was deducted from their annuities, as per a copy of items hereunto attached, marked A 2, wherein it appears, that said Sinclear received \$150 "for counting" their money, and which he afterwards acknowledged to one Thomas Hamilton, that he did obtain from said Indians, at said payment, (although the officer of the United States,) and paid a salary for his services, that embraced that duty. In pencil marks, a copy of said bill of expenses, in the handwriting of the Rev. J. B. Benoit, a Jesuit priest, (who was employed by the Indians to assist at said payment,) was found, and coming to the possession of said deponent, he presented it to said Benoit, and finding that said Sinclear did take said \$150, thereupon *openly charged* said Sinclear with being false and corrupt in his official duties, and soon thereafter procured the deposition of Mr. Thomas Hamilton, a highly respectable and creditable citizen, who heard said Sinclear admit that he took said \$150; and with deponent's deposition, said pencil manuscript, and deponent's letter charging said Sinclear with official corruption, enclosed the same to Wm. Medill, esq., then Commissioner of Indian Affairs, but which received no further notice from that officer, as deponent believes, than to increase the hatred and proscription of said Medill against this deponent, and other Whig claimants, for thus exposing the official corruption of his black-leg, locofoco subordinate; copies of which said deposition, and charges hereunto attached, are marked A, B, C, and D; and the originals, if not destroyed, can be found amongst the papers of the bureau of Indian Affairs at Washington city.

Deponent was then surprised that said Sinclear would, for so paltry a pretext, as "*counting*" *their money* (a part of his official duty, for which the Government paid him) plunder them of the \$150, and permit another \$100, (see 9th item,) again for "*counting*" to be taken; besides other sufficiently high charges to clerks, (Durett and others,) for counting and helping at said payment.

But subsequent developments have induced deponent to believe that said Sinclear extorted said money from said Indians for his pretended friendship and services in changing their national obligation, of the 24th October, 1842, for that of the 27th October, 1845, and procuring said release, wherein the false and corrupt claim of said Madison Sweetser, of \$4,014, was provided to be paid out of the moneys of said Indians, part of which deponent believes that said Sinclear was to receive, (at the payment then made, one instalment of about \$600, was received on said fraudulent allowance of \$4,014.)

Deponent has known said Sinclear for many years; he failed in business on account of his indolence and worthlessness; became dissipated and a gambler; was unprincipled and corrupt; became a locofoco leader of a clique of political managers in Fort Wayne, and for his subserviency was rewarded with the office of sub agent of the Miamies; and not contented with the small salary of \$750 per annum, he sought, by the corrupt practices before related, to acquire money.

After the removal of the Miamies, in November, 1846, to Missouri, his services were dispensed with, (being unsavory even to unscrupulous locofocoism,) and he has passed his time since, mostly in idleness, gambling and dissipation, as deponent has been informed and believes, and has lately gone to California, the companion of said *Sweetser*.

Deponent verily believes that his opposition to the payment of the national obligation of the 24th October, 1842, was made for the corrupt purpose of extorting money from said Miami Indians, or said claimants, either under pretext of defeating the payment of said national obligation, or to force the allowance of said Sweetser's false claim; and that deponent, and other claimants under said national obligation, were greatly wronged and oppressed by said officer, by reason of said corrupt exercise of the influence of the Government by reason of said office of sub-agent, as before stated.

Without the influence of said office, deponent believes said Sinclear could not have coerced said claimants to sign said release; and having been, as this deponent believes, fraudulently and corruptly procured by said Sinclear and Sweetser, in the manner, and for the purposes aforesaid, deponent believes that justice requires that said *release* be cancelled, and that said claimants should be restored to all their rights under said national obligation of the 24th of October, 1842; and further saith not.

R. W. THOMPSON, *Att'y.*

W. G. EWING.

Subscribed and sworn to before me, this 28th day of August, 1849.

O. P. MORGAN,

Notary public.

[SEAL.]

[A 2.]

Laselle	-	-	-	-	-	\$600
Lafontaine, (Colerick)	-	-	-	-	400	} 575
Do. Why-a-women	-	-	-	-	175	
Kiser, (rations)	-	-	-	-	-	600
Sinclair, (counting)	-	-	-	-	-	150
Incidentals	-	-	-	-	-	40
Per Flynn	-	-	-	-	-	10
McLane	-	-	-	-	-	23
Inspector of Iron	-	-	-	-	-	3
For counting	-	-	-	-	-	100
J. B. Durett	-	-	-	-	-	150
J. B. Benoist	-	-	-	-	-	200
Hack	-	-	-	-	-	50
Dr. Sawyer	-	-	-	-	-	60
Zenos Henderson	-	-	-	-	-	25
Mrs. Renard	-	-	-	-	-	25
Delegation	-	-	-	-	-	530
						<hr/> 3,141
Dr. of Peru	-	-	-	-	-	23
						<hr/> 3,164
Contingencies	-	-	-	-	-	50
						<hr/> \$3,214

A true copy.

Attest:

W. RICHARDSON.

FORT WAYNE, Dec. 10th, 1846.

Hon. WM. MEDILL,

Commissioner of Indian Affairs.

I beg leave to enclose to you the deposition of Mr. Thomas Hamilton in relation to the U. S. account of the Miami payment of 1845, and the retention by Mr. Jo. Sinclear of \$150 for counting the Indian money. In my deposition attached to that, I stated that Col. A. Hamilton heard Mr. Sinclear admit that he received it, and since Mr. Thos. Hamilton informed me he heard a like admission, and has obliged me with his deposition. And I now trouble you with it to corroborate the statement I made in my deposition.

Mr. Sinclear's official acts are public property, and I consider it my duty as a citizen to report them when corrupt, as I consider the above to have been, to his superior officers, to whom he and his bondsmen are amenable.

With much respect, your obedient and humble servant,

W. G. EWING.

Attest: W. RICHARDSON.

STATE OF INDIANA, *Allen county, ss.*

Personally appeared before me, the undersigned, an acting notary public in and for said county, Thomas Hamilton, of lawful age, and a creditable citizen, who, being duly sworn, deposeth and saith: That in the month of October last, whilst at Peru, in this State, assisting to collect the Miami Indians to emigrate west, this deponent heard Joseph Sinclear state, in a conversation, that Mr. W. G. Ewing was charging him (Sinclear) with having acted *corruptly* at the payment he made to the Miamies for the year 1845, because he (Sinclear) had taken from the Miamies the sum of one hundred and fifty dollars for helping to count their money; his remarks were about as follows, viz., in October, 1846, in the hall of the hotel in Peru, I met him and Mr. *Benoist*; Benoist had his arm linked in his; he said to me as I was passing, that W. G. Ewing was charging him with *corruption* in retaining or taking \$150 from the Miamies at their last payment; I told him to let all pass, and that it was my opinion he and Ewing were both excited; he said that he would give Ewing a certificate that he received the money if he wanted it; and that no man ever God made should abuse him as Ewing was doing; that he could strike as hard licks as Ewing could.

And further this deponent saith not.

(Signed)

THOMAS HAMILTON.

Sworn to and subscribed before me, O. H. Morgan, a notary public of Allen county, this 10th day of December, A. D. 1846.

(Signed)

O. H. MORGAN, [SEAL.]

Notary public.

A true copy. W. RICHARDSON.

STATE OF INDIANA, *Allen county.*

Personally appeared before the undersigned, an acting notary public in and for the county aforesaid, William G. Ewing, of lawful age, and a creditable citizen, and being duly sworn, deposeth and saith: That the attached account was, as this deponent believes, the items of an expense made by Joseph Sinclear, sub-agent of the Miami Indians, at the payment for the year A. D. 1845, at the Forks of the Wabash, in the handwriting of J. B. Benoit, a Catholic priest, who counselled and assisted Francis Lafontaine, head chief of said Indians, in said business, and was at the time in the confidence of said Sinclear, and that he admitted to this deponent that he had received the sum of \$200 for his services at and prior to that time, assisting in their business; that this deponent believes that all the figures and writing of said account is in his, said Benoit's writing, except the footing up figures "\$3,214," which deponent thinks is the writing of Jno. B. Duret; said Benoit further informed deponent that the said sum of about \$3000 of expenses were retained *first* out of the moneys of said Indians, before any were distributed amongst them..

This deponent is informed by Allen Hamilton, esq., former sub-agent of the Miamies, that the usual expense of making these payments,

whilst he was in office, was from 5 to \$600, and this induced this deponent to examine the attached account; and justice to the Indians and to the public interest, he believes, requires that he should submit it for the consideration of the honorable Indian Department. This deponent was present at the payment whilst some of said moneys were paid out to the Indians and distributed amongst the individuals thereof, as this deponent has seen done by other agents for many years past, without requiring pay from the Indians for "counting" their money, which this deponent believes was their duty to do, and distributed it amongst them to individuals or heads of families as they might require; and for which their salaries from the Government was their compensation. Nor did this deponent see any extraordinary labor bestowed by said Sinclear in the counting of this money.

The 6th item, "Sinclear (counting) \$150," this deponent believes was received by said Sinclear; that he admitted it to Col. A. Hamilton, in the month of October last, that he had received it.

The 8th item, "For counting" \$100, this deponent believes was received by some person unknown to this deponent. Both of which said sums, this deponent believes were unjustly and corruptly taken from said Indians, and that justice to them requires its restitution, and that it was obtained from them by an improper exercise of the influence of the Government over them by said sub-agent Sinclear; particularly so as they were charged for the clerk service of Jno. B. Duret (an able clerk) \$150; and for said Benoit's assistance \$200; and for the help of the captain of the guard, F. D. Lasselle, whom this deponent has been informed and believes received \$200 for assisting in and about the payment, and which he believes is in and a part of the first item of \$600; and whose assistance was sufficient for the occasion in counting and dividing the money, in the opinion of this deponent. And further saith not

W. G. EWING.

True copy.

(Signed) W. RICHARDSON.

Dec. 2d, 1846.

Lasselle	-	-	-	-	-	\$600
Lafontaine, (Colerick)	-	-	-	-	400	} 575
Do. Why-a-woman	-	-	-	-	175	
Kiser, (rations)	-	-	-	-	-	600
Sinclear, (counting)	-	-	-	-	-	150
Incidentals	-	-	-	-	-	40
Per Flynn	-	-	-	-	-	10
McLane	-	-	-	-	-	23
Inspector of iron	-	-	-	-	-	3
For counting	-	-	-	-	-	100
J. B. Duret	-	-	-	-	-	150
J. B. Benoist	-	-	-	-	-	200
Hack	-	-	-	-	-	50
Dr. Sawyer	-	-	-	-	-	60
Zenos Henderson	-	-	-	-	-	25
Mrs. Renard	-	-	-	-	-	25

Delegation	-	-	-	-	530
					<hr/>
					\$3,141
Dr. of Peru	-	-	-	-	23
					<hr/>
					3,164
Contingencies	-	-	-	-	50
					<hr/>
					\$3,214
					<hr/>

A true copy—Test:
(Signed)

W. RICHARDSON.

[Exhibit 3.]

STATE OF INDIANA, *Allen county, ss.*

Personally appeared before the undersigned, a notary public, in and for said county, Cyrus Taber, a respectable and creditable citizen of lawful age, who, being duly sworn, deposeth and saith:

That he was present at the Forks of the Wabash 24th October, 1842, when the Miami Indians in open council executed their national obligation for balances due sundry claimants, under the report and award of the commissioners under the 3d article of the treaty of November 28th, 1840, which by agreement then made to the satisfaction of the parties, was in annual instalments to pay said admitted balances, together with an allowance consented to by the Indians for interest on the deferred payments or instalments as specified in said national obligation.

That the said annual instalments of \$12,500 for the years 1842, 1843, and 1844 were cheerfully paid; but in 1845, when one Joseph Sinclear became the sub-agent of said Miamies, (vice General Milroy, deceased,) difficulties accrued, and a part of said Indians were induced, as this deponent believes, by the connivance of said Sinclear, with the view to extort money from said Indians or the claimants under said national obligation, to oppose further payments on said national obligation. Deponent heard Sinclear in council advise them not to pay said national obligation or any part thereof. That deponent observed great intimacy between said Sinclear and one Madison Sweetser, a notoriously fraudulent claimant, and who was attempting, under the favor of said Sinclear, to procure money from said Indians by opposing the payment of said national obligation, or force said claimants to permit him to draw money upon his fraudulent and rejected claim in both of which designs deponent believes said Sinclear was acting in concert with him, and expected to share in any money they could by these corrupt artifices extort from the Indians or from said claimants.

Deponent believes that they so far succeeded in their *first design* as to get part of the lower Indians to agree to permit them to keep the \$12,500 then due the claimants upon their agreement to destroy or defeat said national obligation. But the principal chief Lafontaine, and most of the other chiefs, persisting in a determination to pay the balances found due under the award of the commissioners, as they had agreed

to do by their national obligation, and doubting the power of said Sinclear to destroy said obligation and release them, defeated the first design.

After the arrival of the hon. E. A. Hannegan, U. S. Senator, on the ground, who was requested to notice the corrupt conduct of said Sinclear, a proposition was made, which it was said would meet the approbation of said Sinclear, to wit, that claimants should only receive six more payments of \$12,500 per annum thereafter, and that said Madison Sweetser's claim should appear in the list of claims for \$4,014, and draw pro rata shares annually, of said \$12,500 during said six instalments.

Deponent believed that all this oppression and corrupt exercise of the influence of the Government was used by said Sinclear, as aforesaid, to extort money by pretext of said notoriously false claim of said Sweetser's, and at first resolved not to consent to any arrangement wherein that false claim should obtain one cent of said money. But as many of deponent's friends were induced to believe that this corrupt transaction would not bar their rights, and that upon a representation of the coercion used by means of the influence of the Government over said Indians by its sub-agent, that any release they might sign would be considered fraudulent, and would be wholly disregarded; and as the honorable Senator then thought that the release would be thus set aside by the Government upon his representations of the circumstances under which it was procured, and the rights of the citizens fully restored, deponent reluctantly agreed to accept the new obligation of the 27th October, 1845, and signed some kind of a release, fraudulently and corruptly devised and forced upon said claimants by the influence of said Sinclear, as deponent believes, and which he could not have procured to be done had he not been the sub-agent and an officer of the Government, as deponent believes.

Deponent recollects to have heard the honorable Senator Hannegan say, that he did not think that under the circumstances claimants would be deprived of any of their rights, and stated that he would make a full representation to the President, and request that the release signed by claimants should not be regarded, and advised claimants to accede to the terms thus forced upon them. Deponent believes that the opinion of the honorable Senator, and the expectation that this release would be set aside, had much to do in inducing many of the claimants to sign the release.

Deponent is of the opinion that said Indians would have cheerfully continued to pay said obligation, but for the corrupt and oppressive interference of said sub-agent, and deponent believes that his motive in this was corruptly to use the influence of the Government to extort money from said claimants or said Indians.

Deponent has long been acquainted with said Sinclear, believed him to be dishonest and corrupt in his principles, and from reliable information believes he is addicted to gambling, indolent, and dissipated, and has left the country for California; and that whilst in office in said Indian

transaction, deponent believes he was greatly influenced by said Sweetser, said fraudulent claimant, and a man of villianous character, (who has also left for California, with said Sinclear,) and that he acted therein, as aforesaid, corruptly and oppressively, and that justice demands that said injured claimants should be restored to their rights, and relieved from said fraudulent oppression.

And further this deponent saith not.

CYRUS TABER.

R. W. THOMPSON, *Att'y.*

Sworn and subscribed before me this 25th day of August, 1849.

O. P. MORGAN, [SEAL.]

Notary Public.

A.

John Tyler, President of the United States of America, to all and singular to whom these presents shall come, greeting:

Whereas a treaty was made and concluded at the forks of the Wabash, in the State of Indiana on the twenty-eighth day of November, in the year of our Lord one thousand eight hundred and forty, between Samuel Milroy and Allen Hamilton, acting as commissioners on the part of the United States, and the chiefs, warriors, and headmen of the Miami tribe of Indians:

And whereas said treaty having been submitted to the Senate for its constitutional action thereon, the Senate did, on the twenty-fifth day of February, one thousand eight hundred and forty-one, advise and consent to the ratification of said treaty with certain amendments, provided the assent of the said Indians should be properly obtained to the same:

And whereas the said Indians did, by their chiefs, headmen, and warriors, in full council assembled, on the fifteenth day of May, one thousand eight hundred and forty-one, give their free and voluntary assent to the amendments made by the Senate in the resolution aforesaid; which treaty, resolution of the Senate making the amendments to said treaty, and the assent of the Indians to said amendments, are in the words following, to wit:

Articles of a treaty made and concluded at the Forks of the Wabash, in the State of Indiana, this twenty-eighth day of November, in the year of our Lord one thousand eight hundred and forty, between Samuel Milroy and Allen Hamilton, acting (unofficially) as commissioners on the part of the United States, and the chiefs, warriors, and headmen, of the Miami tribe of Indians.

ART. 1. The Miami tribe of Indians do hereby cede to the United States all that tract of land on the south side of the Wabash river, not heretofore ceded, and commonly known as "the residue of the Big Reserve;" being all of their remaining lands in Indiana.

ART. 2. For and in consideration of the cession aforesaid, the United States agree to pay to the Miami tribe of Indians the sum of five hun-

dred and fifty thousand dollars; two hundred and fifty thousand dollars of which sum to be set apart and applied, immediately after the ratification of this treaty, and an appropriation is made by Congress to carry its provisions into effect, to the payment of the debts of the tribe, as hereinafter stipulated; and the residue, three hundred thousand dollars, to be paid in twenty equal yearly instalments.

ART. 3. The Miamies being desirous that their just debts shall be fully paid, it is hereby, at their request, stipulated that, immediately on the ratification of this treaty, the United States shall appoint a commissioner or commissioners, who shall be authorized to investigate all claims against any and every member of the tribe which have accrued since the 6th day of November, 1838, or which may accrue before the date of the ratification of this treaty, without regard to distinction of blood in the claimant or claimants; and whose duty it shall be to inquire into the equity and legality of the original cause of indebtedness, whether the same now is, or may then be, in the form of judgments, notes, or other evidence of debt, and report for payment out of the money set apart by this treaty for that purpose such claims only or parts of claims as shall be both legal and just; and his or their award, when approved by the President of the United States, shall be final.

ART. 4. It is further stipulated, that the sum of twenty-five thousand dollars be paid to John B. Richardville; and the sum of fifteen thousand dollars to the acting executor of Francis Godfroy, deceased, being the amount of their respective claims against the tribe, out of the money set apart for the payment of their debts by the second article of this treaty.

ART. 5. And whereas the late war chief, Francis Godfroy, bequeathed to his children a large estate, to remain unsold until the youngest of said children shall arrive at the age of twenty-one years: It is therefore stipulated that the United States shall pay to the family of said deceased chief their just proportion of the annuities of said tribe at Fort Wayne, from and after the time the tribe shall emigrate to the country assigned to them west of the Mississippi.

ART. 6. It is further stipulated that the sum of two hundred and fifty dollars shall be paid annually by the United States, and accepted by the Miamies, in lieu of the labor stipulated to be furnished by the fourth article of the treaty of the 23d of October, 1826, for the purpose of preventing the dissatisfaction occasioned heretofore in the distribution of said labor amongst the different bands.

ART. 7. It is further stipulated that the United States convey by patent to Me-shing-go-me-zia, son of Ma-to-sin-ia, the tract of land reserved by the 22d article of the treaty of the 6th of November, 1838, to the band of Ma-to-sin-ia. And the same provision made in favor of John B. Richardville and family, in the 14th article of the treaty of the 6th of November, 1838, is hereby granted and extended to the above named Me-shing-go-me-zia and to his brothers.

ART. 8. It is hereby stipulated that the Miami tribe of Indians shall remove to the country assigned them west of the Mississippi within five

years from this date; the United States paying every expense attending such removal, and to furnish rations to said tribe for twelve months after their arrival at said country. And the United States shall also cause four thousand dollars to be expended to the best advantage in supplying good merchantable pork and flour to said tribe during the second year of their residence at their new homes; which sum is to be deducted from their annuity of that year.

ART. 9. It is further stipulated that should there be an unexpended balance of the "two hundred and fifty thousand dollars," after the payment of the debts of the tribe, as provided in the second article of this treaty such balance is to be paid over to the Miamies at the next payment of annuities, after the amount of said balance shall have been ascertained. And should the sum so set apart for the purpose aforesaid be found insufficient to pay the said debts, then the ascertained balance due on the same to be paid out of the annuity arising from this treaty.

ART. 10. It is stipulated and agreed between the contracting parties, that there shall be, and hereby is, granted and reserved to John B. Richardville, principal chief, seven sections of land from the land ceded in the first article of this treaty, at such point or points as he may select, (not less than one section at any one point,) to be conveyed to him by patent from the United States; and also, in like manner, one section of land to Francis Lafontaine, at the rapids of Wildcat, to be surveyed under his direction.

ART. 11. Nothing in this treaty shall be so construed as to impair the force or validity of former treaty stipulations existing between the United States and the Miami tribe of Indians, not altered by nor coming within the purview of any of the provisions of this treaty.

ART. 12. It is hereby stipulated that the United States provide for the payment of the expense which may be necessarily incurred in the negotiation of this treaty.

ART. 13. This treaty shall be binding on the United States, and on the Miami tribe of Indians, from and after the date of its ratification by the President, by and with the advice and consent of the Senate of the United States; but if the same shall not be so ratified before the 4th day of March next, it shall be of no binding force or validity.

ART. 14. We, the chiefs, warriors, and headmen, of the Miami tribe of Indians, having examined and considered the foregoing articles, after the same had been interpreted and explained to us to our satisfaction, do hereby agree and request that the said articles shall be taken and held as a treaty between the parties thereto; and when ratified as provided in the last preceding article, be binding on our tribe, and on the United States, as fully to all intents and purposes as though the same had been officially and formally made on the part of the United States.

In testimony whereof we, Samuel Milroy and Allen Hamilton, on behalf of the United States (as aforesaid,) and the chiefs, warriors, and headmen, of the Miami tribe of Indians, have hereunto set our hands.

Done at the Forks of the Wabash, in the State of Indiana, this twenty-eighth day of November, one thousand eight hundred and forty.

SAMUEL MILROY,

ALLEN HAMILTON,

Principal chief, John B. Richardville,	his x mark.
Wau-pa-pin-shaw,	his x mark.
O-zan-de-ah,	his x mark.
Cha-pine,	his x mark.
Me-shing-go-me-zia,	his x mark.
Wauk-a-shing-guah,	his x mark.
To-pe-ah,	his x mark.
Pe-wan-pe-oh,	his x mark.
Ma-ze qua,	his x mark.
Ma-gou-zah,	his x mark.
Peshe-a-wauh,	his x mark.
Po-qua-Godfroy,	his x mark.
Na-kun-sah,	his x mark.
Ko-es-say,	his x mark.
Shin-go-me-zia,	his x mark.
Te-moo-te-oh,	his x mark.
Ma-qua-co-nong,	his x mark.
Mon-go-sou,	his x mark.
Tuc-ke-mun-guagh,	his x mark.
Bo-wa-wah,	his x mark.

Signed in the presence of

H. B. MILROY, *Secretary.*

DAVID CARRIER,

GEO. M. MAXWELL,

ROBERT H. MILROY,

PETER ANDRE, his x mark,

Interpreter.

IN SENATE OF THE UNITED STATES,

February 25, 1841.

Resolved, (two-thirds of the Senators present concurring,) 'That the Senate advise and consent to the ratification of the treaty made and concluded at the Forks of the Wabash, in the State of Indiana, the twenty-eighth day of November, in the year of our Lord eighteen hundred and forty, between Samuel Milroy and Allen Hamilton, acting as commissioners on the part of the United States, and the chiefs, warriors, and headmen of the Miami tribe of Indians; with the following amendments; *provided*, that the assent of the said Indians shall be properly obtained to the same, to wit :

In the second article, strike out the words "two hundred and fifty," and insert *three hundred*; and, in the latter clause, strike out "three hundred," and insert *two hundred and fifty*.

Add to the third article the following: 'Two hundred and fifty thousand dollars of the sum set apart in the second article of this treaty shall be applied to the payment of debts contracted before the twenty-eighth

day of November, 1840; and the residue of said sum, after such debts are satisfied, being fifty thousand dollars, to the payment of debts contracted between the last named date and the time of the ratification of this treaty by the Senate of the United States; giving the preference, in the application of said sum of fifty thousand dollars, to debts contracted for provisions and subsistence.

In the seventh article, strike out the words "twenty-second" and insert *second*.

In the same article, at the first period, insert, to be held in trust by the said Me-shing-go-me-zia for his band; and the proceeds thereof, when the same shall be alienated, shall be equitably distributed to said band, under the direction of the President.

In article nine, strike out "two hundred and fifty" and insert *three hundred*; and strike out the whole of that article after the word "ascertained."

Insert after article eleven, an additional article: Article 12. 'The United States hereby stipulate to set apart and assign to the Miamies, for their occupancy west of the Mississippi, a tract of country bounded on the east by the State of Missouri, on the north by the country of the Weas and Kaskaskias, on the west by the Pottawatamies of Indiana, and on the south by the land assigned to the New York Indians, estimated to contain five hundred thousand acres.

Attest:

ASBURY DICKENS, *Secretary*.

We, the undersigned chiefs, headmen, and warriors, of the Miami tribe of Indians, residing in the State of Indiana, do hereby give our free and voluntary assent to the foregoing amendments, made by the Senate of the United States on the 25th day of February last, to the treaty concluded by us with the United States on the 28th day of November, 1840; the same having been submitted and fully explained to us by Samuel Milroy and Allen Hamilton, commissioners on the part of the United States for that purpose, in full council assembled, at the Forks of the Wabash, in the State of Indiana.

In testimony whereof we have hereunto set our hands, and affixed our seals respectively, this fifteenth day of May, 1841.

Na-wa-lin-guah,	his x mark [L. s.]
Pe-she-wah,	his x mark [L. s.]
O-yan-de-ah,	his x mark [L. s.]
Na-kan-yah,	his x mark [L. s.]
Shin-go-me-zia,	his x mark [L. s.]
Pe-wau-pe-ah,	his x mark [L. s.]
Te-moo-te-ah,	his x mark [L. s.]
Wau-pe-mun-guah,	his x mark [L. s.]
Sha-pen-do-ziah,	his x mark [L. s.]
Wau-pe-pin-ce-ah,	his x mark [L. s.]
Co-i-sey,	his x mark [L. s.]
Mah-con-zah,	his x mark [L. s.]
Pa-cong-ye-ah,	his x mark [L. s.]
Mah-qui-e cah,	his x mark [L. s.]

Cau-te-mon-guah,	his x mark	[L. s.]
Mong-gon-zah,	his x mark	[L. s.]
Mah-gon-zah,	his x mark	[L. s.]
Con-o-cot-wah,	his x mark	[L. s.]
Shau-cot-to-wah,	his x mark	[L. s.]
Sha-pen-do zia,	his x mark	[L. s.]
Cant-ah-chin-guah,	his x mark	[L. s.]
Ma-ze-quah,	his x mark	[L. s.]
Cant-au-seep-au,	his x mark	[L. s.]
To-pe-ah,	his x mark	[L. s.]
Ma-con-zah,	his x mark	[L. s.]
Maun-go-zah,	his x mark	[L. s.]
Ka-lah-ca-mic,	his x mark	[L. s.]
Keel-son-sauh,	his x mark	[L. s.]
Keel-swah,	his x mark	[L. s.]
Benjamin,	his x mark	[L. s.]
John B. Richardville,	his x mark	[L. s.]
Poqua Godfroy,	his x mark	[L. s.]

Done in presence of—

SAMUEL MILROY, }
ALLEN HAMILTON, } *Commissioners.*

H. B. MILROY, *Secretary to Commission.*

PETER ANDRIE, his x mark, }
GRIGWAY BOUDIE, his x mark, } *Interpreters.*

Now, therefore, be it known, that I, JOHN TYLER, President of the United States of America, do, in pursuance of the advice and consent of the Senate, as expressed in their resolution of the twenty-fifth of February, one thousand eight hundred and forty-one, accept, ratify, and confirm the said treaty, with the amendments set forth in the said resolution.

In testimony whereof I have caused the seal of the United States to be hereunto affixed, having signed the same with my hand.

Done at the city of Washington, the seventh day of June, in the year of our Lord one thousand eight hundred and forty-one, and of the independence of the United States the sixty-fifth.

[L. s.]

JOHN TYLER.

By the President:

DANIEL WEBSTER, *Secretary of State.*

B.

We the undersigned chiefs and headmen of the Maimi tribe of Indians, for and on behalf of the tribe, do hereby set apart twelve thousand and five hundred dollars now, and deposit the same in the Branch of the State Bank at Fort Wayne, and in addition thereto do thereby agree to set apart a like sum at each annual payment of our

annuities for the space of twelve years, for the payment of the debts of the individuals of the nation which accrued between the sixth of November, 1838, and the 28th of February, 1841, as liquidated and adjudged to be due by the commissioners appointed under the treaty of the 28th of November, 1840, between the United States and the said Maimi tribe; and we do hereby expressly restrict the payment of the above to be the balances of debts liquidated and adjudged to be due by the commissioners aforesaid in the same amounts, and no more than allowed by said commissioners, and yet remaining unpaid out of the sum set apart by said treaty for their payment; and we request the Government of the United States to retain the amount set apart from year to year in the treasury of the United States, and to pay the same to our aforesaid creditors, in the extinguishment of the balance due by us upon the report of the aforesaid commissioners in the spirit and meaning of the treaty, and that part of article 9 rejected by the Senate; and in consideration that our aforesaid creditors have agreed to take their debts in the above instalments, it being the amount derived from the last treaty with the United States for the sale of our lands, we voluntarily throw in twenty-five thousand dollars as an equivalent for interest and all damage for delay of payment; and it is hereby agreed on the part of our creditors that the before mentioned sums are by them taken and received in full discharge and satisfaction of all claims and demands whatsoever against the said nation, and against the individuals of said nation, arising from any contract or dealing between the sixth day of November, 1838, and the 25th day of February, 1841, either on the part of the nation or individuals; and the sum now deposited in the bank at Fort Wayne, we direct to be paid in extinguishing the balances remaining due upon the report of the aforesaid commissioners in the spirit of the last named treaty, and upon principles of equity and justice, by the cashier of said bank whenever he shall be informed of the just and proper principles to distribute the same among our aforesaid creditors.

In testimony whereof we, the undersigned claimants, and we the undersigned chiefs and headmen of said tribe of Miami Indians, have hereunto set our hands. Done at the Forks of the Wabash, in the State of Indiana, this 24th day of October, A. D. 1842; all the within named amounts are to be paid said claimants in full.

Names of claimants.

W. G. & G. W. Ewing,
 Taber & Hamilton,
 Francis Comparet,
 Comparet & Rosseau,
 Scott, Iten & Co.,
 Alexander Willson,
 Wm. H. Prince & Co.,
 David Foster,
 J. D. Stapleford,

D. R. Bearss,
 Ewing, Barlow & Co.,
 Albert Coles,
 A. A. Coles,
 L. B. Berthelet,
 Zenos Henderson,
 John M. Miller,
 William Smith,
 F. S. Avaline,

Names of chiefs and headmen.

To-pe-aw,	his x mark.
O-zan-de-aw,	his x mark.
Me-shing-go-me-shaw,	his x mark.
Kaw-wah zly,	his x mark.
Pe-she-waw,	his x mark.
Benjamine,	his x mark.
Me-kon-zau,	his x mark.
Me-zeo-querer,	his x mark.
Maw-you-e-qui-yaw,	his x mark.
Poque	his x mark.
Kah-luh-le-pan-awh,	his x mark.
Shau-pin-a-mo-ah,	his x mark.
O-san-u-zong-gaw,	his x mark.
Jark-ko,	his x mark.
Waw-k-konck-ke-nang,	his x mark.
Ke-mo-tah-awh,	his x mark.
Pe-wap-yaw,	his x mark.
Suk,	his x mark.
Shaw-kow-to-wan,	his x mark.
Won-pe-mong-quaw,	his x mark.
Shap-pun,	his x mark.
Po-koung-qua-aw,	his x mark.
Waw-paw-pet-taw,	his x mark.
Ne-we-long-guaung-gaw,	his x mark.
Ah-waun-zau-pe-zau,	his x mark.
Bronellett,	his x mark.
Shap-pon-do-se-aw,	his x mark.
Song-gen-ko-lah,	his x mark.
Charley,	his x mark.
Shap-pon-do-se-aw,	his x mark.
None-dow-koo-shing-gaw,	his x mark.
Mah-lule-kin-zaw,	his x mark.
Ke-mo-to-aw,	his x mark.
E-to-ke-gin,	his x mark.
Wan-wo-ass-sue.	his x mark.

Witnesses.

J. B. Denet,
 Julias Benoit,
 John B. Chasse,
 James Raridan,
 Elias Murry,

Hugh McColluch,
 James Avaline,
 Samuel Deiver,
 James T. Miller,
 Peire Andre,

FORT WAYNE, *October 3, 1845.*

I certify the foregoing to be a copy of the original contract in my possession.

H. McCULLOCH.

FORT WAYNE, *October 3d, 1845.*

I do certify the foregoing to be a true copy of the original contract.

JOS. SCOTT.

C.

Extract from letter of Jos. Sinclear to the Commissioner of Indian Affairs, dated Fort Wayne, July 7, 1845.

“I enclose you herewith a copy of a contract entered into by the Indians and traders, which contract is the source of much dissatisfaction on the part of the Indians. They assert that the contract is for a larger amount than was due the traders; that it was never correctly interpreted to them, and that the transaction was fraudulent from the beginning.

“They charge upon James Rariden (who represented to them that he was appointed their attorney) that he was, at the time of the execution of this contract, acting as the agent, or at least as the friend, of the claimants, according to a contract entered into between the traders, or a portion of them, and himself, in the city of Washington, in the spring previous to the execution of their contract with the claimants; by which contract Rariden was to receive a large sum of the claimants in consideration of his favoring their operations with the Indians.

“Frequent inquiries are made of me in relation to this matter; but as I am not in possession of the commissioner’s report, upon which the contract seems to be based, I am unable to give any explanation that is satisfactory. Will you, in your next communication to me, state the entire amount allowed by the commissioners, as well as the amount that was paid thereon from funds provided by treaty.

“I shall be called upon, no doubt, at the first council that is held, to make a full explanation of this matter to the tribe; and, as it is a matter involving a large amount of money, I wish to act precisely right. If you have any suggestions to make, touching this difficulty, I shall be happy to receive them.”

JOS. SINCLEAR.

D.

WAR DEPARTMENT,
Office Indian Affairs, July 18, 1845.

SIR: I have received your letter of 7th instant, on several subjects connected with your sub-agency, which I proceed to answer.

You call my attention to, and enclose a copy of, an agreement of the Miami Indians to pay certain claimants the balances for certain debts which had been adjudicated by Messrs. Clark, Bloomfield, and McCarty, and ask instructions how to act. The agreement, of which you enclose a copy, was presented to the department in November, 1842, and was submitted by this office to the Secretary of War, Mr. Spencer, with the following endorsement: “Respectfully referred to the Secretary

of War, November 15, 1842. T. Hartley Crawford." Below this, in pencil, is written, "I do not think the department should, in any way, recognise the within agreement, but pay over the annuity to the Indians as if it did not exist. 'T. H. C.'" On this the then Secretary of War made the following decision: "The agreement referred to cannot be sanctioned by this department, nor can it be recognised in any form. The demands of the traders were adjusted by the department on principles of great liberality to the traders, and the Indians are not in fact indebted beyond the sums thus settled. The agent should inform them of the above views, and cannot lend himself in any way to aid or influence the payment of any thing to the traders. It is to be regretted that he did not pay the annuities so promptly as to enable the Indians to distribute it among themselves; and in future he will endeavor so to make payments as to relieve the Indians from any apprehensions of coercion by legal process or otherwise. J. C. S."

November 16, 1842.

In February last the subject was again brought up, in a letter from Geo. W. Ewing, esq., to Mr. Secretary Wilkins, when Mr. Ewing was informed that the decision of Mr. Spencer would be adhered to by the department. You will, therefore, consider the order in force, and will strictly comply with its requirements.

I annex a statement of the amount allowed by the commissioners, and the amount appropriated to pay it:

Amount allowed by comm'rs., viz: Before the treaty,		\$185,333 72	
After the treaty,		203,568 68	
			<hr/> \$388,907 40
Appropriated by the treaty,	-	\$300,000	
Paid to Richardville and Godfrey	-	40,000	
		<hr/>	260,000 00
			<hr/> <hr/> \$128,907 40

(Signed,)

T. HARTLEY CRAWFORD.

JOSEPH SINCLAIR, esq.,
Port Wayne, Indiana.

E.—*George Hunt's deposition.*

STATE OF INDIANA, *Miami county, ss.*

Before me, the undersigned, an acting justice of the peace in and for said county, this day personally came George Hunt, of said county, of lawful age, to wit, of the age of thirty years, and known to me to be a man of truth and veracity, and a respectable citizen, who being by me duly sworn, upon his oath deposes and says, that he is an educated half-breed of the Miami tribe of Indians; that he was educated at the Choctaw academy, in the State of Kentucky, and returned from there

about the year 1834, and has ever since resided in said county, among and as a member of said tribe.

This deponent further deposeth and says, that he was present and signed the last Miami treaty, made on the 28th day of November, 1840, and that for several years he acted as the interpreter for said tribe; that he was present at the investigation of claims under said treaty, by Commissioners Clark, Bloomfield, and McCarty, in the year 1841; that he understands, speaks, and writes the English language, and also understands and speaks the Miami Indian tongue.

This deponent further deposeth and says that he was present at the forks of the Wabash on the 24th day of October, A. D. 1842, when the creditors of said tribe of Miami Indians settled with them, (us,) and took a national obligation from the tribe to them for thirteen annual instalments of twelve thousand five hundred dollars each, which the nation agreed to pay to said creditors, for the unpaid balances then due and remaining unpaid on the report of said Commissioners Clark, Bloomfield, and McCarty, and it was then fully understood that the said thirteen instalments would pay off said balances, and leave an excess which the nation agreed to pay and allow as interest and compensation for delay of payment. That this settlement was made and explained in full council, and the said national obligation was then signed by all the chiefs and headmen of the nation, (I among the rest,) and also by their said creditors, in the presence and with the consent and approbation of the whole nation. That the first instalment of twelve thousand five hundred dollars was thereupon paid over by the nation on said national obligation, and that at the two subsequent payments of the annuities due said tribe, for the years 1843 and 1844, the said amounts (\$12,500 each year) were paid regularly by them on said obligation.

This deponent further deposes and says, that up to this time, (although present at all the payments and councils, and aiding and participating in the same,) he never heard any complaints or dissatisfaction expressed by the nation or any of its members, but all had entire confidence in the correctness of the report of said commissioners, and were willing and desired to pay said claims in the manner agreed upon.

This deponent further says, that in the year 1845, (and several months before the payment was made to said tribe of their annuities for that year,) Joseph Sinclair was appointed sub-agent for said tribe; soon after which the tribe was counselled by him and Madison Sweetzer, and advised by them to repudiate and refuse to pay any more on said national obligation; and they proposed to relieve them of it entirely if the nation would pay them one instalment, that is to say, \$12,500.

This deponent further deposeth and swears, that most of the chiefs, (and among them To-pe-ah *alias* Lafontaine,) were unwilling, and said it would not be right to do so, because the commissioners, who had been appointed by their great father, the President, had reported that their nation owed these debts, and they had agreed to pay them; and they had already agreed to make there annual payments on them. Much

was said by these two white men, Sinclear and Sweetzer, to the people of the tribe, who finally urged the chiefs and headmen to repudiate, and therefore at the payment, made in the month of October, A. D. 1845, the tribe did (acting under the advice of said sub-agent) refuse to pay over to the claimants the instalment due for that year, and said they would not pay them any more.

The sub-agent told the tribe that it was a fraudulent claim, and they must not pay it; but at length, after much angry talk on the subject between some of the principal claimants and the sub-agent, towards whom he was personally hostile, the former insisting upon their instalment then due, and the later advising the nation not to pay them any more, the principal chiefs and some of the headmen again said they wanted to act honestly, and pay as they had agreed to. The next day the sub-agent told the claimants, that if they would agree to give up the obligation they then held, and would take a new one for six yearly instalments more, he would consent to it; but if they would not do this, he would not permit the nation to pay another dollar, and they never should be paid. The claimants fearing, as they said, that they would lose all, did consent; and when the new obligation was made, there was \$4,014 inserted for M. Sweetzer, although the tribe did not owe him any thing, as they had been informed by the commissioners, and as their report showed. Yet this was put in for said Sinclair and Sweetzer, and the chiefs were told that it did not come off of their nation, but it was taken from the other claimants.

The sub-agent and said Sweetzer were, as this deponent then understood and still believes, to divide this between them, and they were to receive a thousand dollars more from the tribe for helping to destroy said first mentioned national obligation.

The nation agreed to this, and after it was all arranged, and that payment was made that fall, (1845,) I was present when To-pe-ah and the other chiefs paid the said sub-agent (Joseph Sinclear) two hundred dollars on account of this out of national money, which had been reserved for this purpose. The remainder, (say \$800,) the tribe was to pay him at the next annual payment in 1846, provided all was fixed up right at Washington.

In 1846 the tribe removed west of the Mississippi, and said Sinclear was discontinued as their sub-agent before the payment of that year was made, and he did not receive any more pay from the nation, as this deponent knows of.

Said Sinclear was sub-agent but a short time, and was when he quit very much disliked by the Miamis, who had no confidence in him and did not respect him.

This deponent further states, that he was present at all or most of the councils, payments, and other meetings of said tribe, and knew and heard all that transpired. The Indians did not of their own accord or otherwise re-examine said claims, or their indebtedness when they gave their new obligation; they never desired to do so, nor could not have

done so if they had. All this was fixed up by said sub-agent, and for which he was paid as herein stated; and further saith not
 GEORGE HUNT.

Subscribed and sworn to before me, this 22d day of August, A. D. 1849.

CHANDLER C. MOORE, *J. P.* [SEAL.]

STATE OF INDIANA,
Miami county, ss.

I, James B. Fulwiler, clerk of the Miami circuit court, in said State, do hereby certify that Chandler C. Moore, whose name is subscribed to the foregoing, was, at the time of his signing the same, to wit, on the 22d day of August, 1849, and still is, an acting justice of the peace in and for said county, duly commissioned and qualified according to law, and that full faith and credit are due to all his official acts as such.

In witness whereof I have hereunto set my hand and the seal of said [L. S.] court, at Peru, this 27th day of August, A. D. 1849.

JAMES B. FULWILER, *Clerk.*

F.

UNITED STATES OF AMERICA,
State of New York, ss.

Personally appeared before me, Lucius Pitkin, a notary public, duly admitted and sworn, dwelling in the city of New York, Edward A. Hannegan, esq., of lawful age, who, being duly sworn, deposeth and saith :

That in the fall of 1845 he was at the forks of the Wabash river, in the State of Indiana, at the time of the payment of the Miami Indians, when a difficulty occurred between the sub-agent and sundry claimants, under the treaty of November, 1840. By the third article of the treaty, Messrs. Bloomfield, Clark, and McCarty had been appointed commissioners to investigate claims, and as the money appropriated in the treaty was not sufficient to pay for all the indebtedness, the chief and the headmen, as this affiant was informed and believes, in open council, had executed a national obligation to pay the balance upon settlement in yearly instalments of \$12,500 per annum; that at this time there were still due, as deponent was informed and believes, ten instalments, one then due, and nine to be paid yearly thereafter. That the sub-agent was using the influence of his office to resist the payment of this national obligation, and proposed to divide all the money out to heads of families to prevent any further payment; that deponent advised him to permit the Indians to continue to pay their national obligation to the citizen claimants, if they desired to do so; that after much interference and trouble, said sub-agent proposed that the Indians would make the payment of \$12,500 then due, conditioned that claimants would consent to receive a new obligation from the nation, and deduct from the former one four of the instalments of \$12,500 per annum, (\$50,000,)

and take it for six years, interest of the ten years, then remaining unpaid. That the claimants consulted deponent about the matter, expressing great reluctance to be coerced and forced to relinquish so much of their debt, and great dissatisfaction that this influence should be used by the sub-agent to coerce them out of their rights. That deponent advised them to submit to what was required, believing, as he did, that under the circumstances it would not destroy their rights, and as the whole subject would be investigated by the Government, that they would be allowed all that was due them under the original national obligation, and that, being present, he would represent the transaction to the Government, and request that the surrender of their rights, against their sense of justice, and forced from them by the improper use of the influence of said officer, might not be considered as a release of these four instalments, as they were equally just and owing as the other six instalments; that afterwards, when the subject was brought before the proper officers of the United States, it was considered that the original national obligation was as a judgment, part paid, but insisted on this release, and only confirmed to the claimants the amount of \$75,000, as specified to be due in the last obligation, being four instalments less than the former national obligation. Deponent considered that injustice was done the claimants, and as the release was obtained from them by an improper exercise of the influence of the sub-agent over them, that it should have been disregarded, and that the full amount due under the first national obligation (upon which I am informed that three instalments had been paid) should have been awarded to them; that if any portion of the original obligation was justly due the claimants, it was *all* due them. Deponent feels quite confident that if the sub-agent had not thus improperly used the influence which his office gave him over said Indians, that they would have paid the ten instalments then unpaid and due on their original national obligation.

Deponent then thought that this relinquishment of their rights, when explained, would not be insisted on by the Government, and so expressed his opinion at the time.

And deponent further saith not.

E. A. HANNEGAN:

Sworn to before me, this first day of May, 1849, witness my hand and seal of office.

LUCIUS PITKIN, [L. s.]
Notary Public, New York.

G.

We, the undersigned, headmen and warriors of the Miami tribe of Indians, in behalf of our tribe, and not in our individual capacity, having examined of our own free will and accord certain claims against the individuals of our tribe, originating prior to the 25th of February,

1841, do hereby acknowledge to be due from our tribe to the following named persons, the sums respectively attached to their names, to wit:

Lewis B. Berthelet	-	-	-	-	\$575 00
W. G. & G. W. Ewing	-	-	-	-	30,898 00
Ewing, Barlow & Co.	-	-	-	-	3,050 00
Taber & Hamilton	-	-	-	-	17,609 00
Daniel R. Bearss	-	-	-	-	2,075 00
Defrees & Fennimore	-	-	-	-	105 00
O. Bird, as assignee of R. Officer	-	-	-	-	50 00
William Smith	-	-	-	-	160 00
Alexander Wilson, assignee of W. H. Prince & Co., and A. Wilson & Co.	-	-	-	-	2,004 00
Joseph Beaubien	-	-	-	-	75 00
Tagert & Bush	-	-	-	-	27 00
Albert Cole	-	-	-	-	288 00
Alphonzo Cole	-	-	-	-	20 00
H. McCulloch, cashier, assignee of F. Comparet, F. S. Avaline, Scott, Iten & Co., Comparet & Reauseau					10,383 00
Dominic Reauseau	-	-	-	-	1,429 00
John D. Stapleford	-	-	-	-	1,686 00
David Foster	-	-	-	-	512 00
John W. Miller	-	-	-	-	40 00
Madison Sweetser	-	-	-	-	4,014 00

\$75,000 00

And for the purpose of liquidating and satisfying fully the same indebtedness, we, the same headmen and warriors aforesaid, in behalf of of the said tribe, do agree to set apart and pay out of the annuities of said tribe to the said claimants, the sum of twelve thousand five hundred (\$12,500) dollars, for the space of six years, to wit, 1845, 1846, 1847, 1848, 1849, 1850; which said sums of money are to be paid over and received by said claimants on the amounts acknowledged to be due, *pro rata*; and when the said sum, to wit, seventy-five thousand (\$75,000) dollars shall have been so paid and received, it shall be in full payment and perfect satisfaction of all claims and demands of the said claimants arising and originating prior to the 25th of February, 1841, so that by the payment of the sum aforesaid, in the manner above mentioned, the tribe of the Miamies and every individual thereof shall be forever discharged from all claims and demands prior to the 25th of February, 1841.

And this agreement is made with the express understanding and condition, that no payment after the present one shall be considered as due, or in any way or manner paid to the said claimants, until after the removal of the Miami tribe of Indians to the country set apart for them west of the Mississippi river.

We earnestly request our great father, the President of the United States, to approve this agreement, and to cause the said sum of twelve

thousand five hundred dollars to be retained at the city of Washington for the space of five years, and paid out to our creditors in this article in a pro rata proportion.

To-pe-ah,	his x mark.
Me-shin-go-ne-zia,	his x mark.
George Hunt,	
Pe-she-wah,	his x mark.
Sho-pin-a-mah,	his x mark.
Mah-quah-co-man-quah,	his x mark.
Tah-cun-zah,	his x mark.
Ca-tah-ka-mun-quah,	his x mark.
Cuh-tah-chin-ge-ah,	his x mark.
Pe-wah-pe-ah,	his x mark.
O-zan-de-ah,	his x mark.
Nah-cun-zah,	his x mark.
Wah-pe-sa-tah,	his x mark.
Mah-con-zah, (signed below as Seek,)	his x mark.
Me-ah-que-ah,	his x mark.
Sha-pen-do-se-ah,	his x mark.
Co-san-quah,	his x mark.
Wah-pe-mun-quah,	his x mark.
Po-con-ge-ah,	his x mark.
Me-tah-que-ke-ah,	his x mark.
Po-pan-ge-ah, (Me-shin-go-me-zias's son,)	his x mark.
Sah-ka-quah,	his x mark.
Ke-la-ke-mo-ke-ah,	his x mark.
Wan-za-pe ah,	his x mark.
Nip-pe-no-zah,	his x mark.
O zan-de-ah,	
Kil-suah,	his x mark.
Lah-mah-ke-co-mah,	his x mark.
Con-ah-sey,	his x mark.
Tah-tah,	his x mark.
Nah-me-lin-quan-quah,	his x mark.
Cuh-tah-sip-pau-nah,	his x mark.
Seek,	his x mark.
E-tah-we-ke-shick,	his x mark.

Witness present to the signing, 27th October, 1845.

ALLEN HAMILTON,

JOHN ROCHE.

G 2.

Whereas difficulties and complaints have arisen between the undersigned and the headmen and warriors of the Miami tribe of Indians in regard to a certain contract or agreement made and entered into by said parties on the twenty-fourth of October, A. D. one thousand eight hundred and forty-two, we, the undersigned, being averse to do any

thing contrary to, and at variance with, the feelings and wishes of said headmen and warriors of the Miami tribe of Indians, and knowing the willingness of said headmen and warriors of said tribe to do full and ample justice to us, do hereby surrender and relinquish forever, and without restriction whatsoever, all our right, title, claim, and interest to said agreement or contract, confiding altogether in the justice, generous principles, and magnanimity of said headmen and warriors of the Miami tribe of Indians.

In witness whereof we have hereunto set our hands and seals, this 21st of October, A. D. 1845.

W. G. & G. W. EWING,
 TABER & HAMILTON,
 DAVID FOSTER,
 ALEXANDER WILLSON,
 WM. H. PRINCE & CO.,
 A. WILSON & CO.,
 F. S. AVALINE, by J. BENOIT,
 L. B. BERTHLET,
 D. R. BEARSS,
 H. McCULLOCK, CASHIER.
 EWING, BARLOW & CO.

H.

Medill to Geo. W. Ewing.

WAR DEPARTMENT,
(Office Indian Affairs, November 3, 1845.

SIR: I have the honor to acknowledge the receipt of your letter of the 31st ultimo, relative to the difficulties reported to have taken place at the payment, or attempt at payment, of the Miami annuities, also setting forth the conduct of the sub-agent, Mr. St. Clair, and the murders and bloodshed committed.

It is deeply to be deplored that any thing like violence should have taken place, and more especially so as these Indians are in the midst of a white population, who, no doubt, will feel much excited by events of this character. Mr. St. Clair has not received instructions from this office to pay the annuities in any other manner than heretofore, and his undertaking to pay them by heads of families is unauthorized. He was directed by my predecessor to carry out the decision of Mr. Spencer, and not retain the \$12,500 contracted to be paid the creditors of the Indians, or in any way recognise such agreement, but his instructions went no further.

I have this day addressed a communication to Mr. St. Clair touching the charge made against him, and informing him that an explanation is necessary, and that the annuity must only be paid in the manner that the Indians desire to receive it.

Very respectfully, your obedient servant,
 GEO. W. EWING, Esq., *now in Washington.*

W. MEDILL.

I.

Senate Resolution.

IN SENATE OF THE UNITED STATES, FEBRUARY 24, 1846.

Whereas, by the treaty of 28th November, 1840, between the Miami nation of Indians, residing in the State of Indiana, and the United States, the said Indians agreed to remove to the country set apart for them, west of the State of Missouri, within five years thereafter; and

Whereas that time has expired, and the Government of the United States, as well as the people of the State of Indiana, earnestly desire that their removal shall take place early this coming spring; therefore, in the furtherance of this important and desirable object, be it—

Resolved, That the President of the United States, if he deems it expedient so to do for the purpose of effecting a speedy, peaceable, and satisfactory removal of said Indians, may accept their draft or authority to pay their debts, in yearly instalments, out of their annuities falling due from the United States, not, however, to exceed a reasonable proportion thereof each year, and as he (the President) may, in his discretion, believe to be just and proper, and in like or similar manner as was done by the President in the case of the Pottawotamie Indians at the time of their removal from the State of Indiana, in the year 1838.

Attest:

ASBURY DICKENS, *Secretary*.

K.

Hon. WM. L. MARCY, *Sec'y of War*.

SIR: The undersigned most respectfully and earnestly request that the debts due the citizens of the State of Indiana by the Miami nation of Indians, as reported and allowed by Commissioners Clark, Bloomfield, and McCarty, under the treaty of 28th November, 1840, may be secured and paid agreeably to the compact and settlement made between said Indians and the respective claimants on the 24th October, 1842.. (See copy of agreement herewith.)

The undersigned unite with the claimants in their desire to see these *admitted* balances secured by the confirmation of that compact before their debtors (the said Indians) are removed from the State of Indiana, and by which removal the rights of the claimants will be jeopardized, and their remedy at law destroyed. When these debts were contracted, (prior to 1843,) the persons and property of the Indians were, by the laws of Indiana, liable for debt. The writ of "*ne exeat*" is now in force in our State.

The claimants do not wish to resort to that disagreeable alternative; most of them were active in their efforts to aid the General Government in buying out these Indians. It is believed that these very debts had their influence, and mainly induced the Indians to give their final assent to the treaty in May, 1841. It has been the practice of the Gov-

ernment to protect the citizen in like cases. In 1838, *preparatory* to the removal of the Pottawotamies from our State, the same occurrences took place.

Those people owed balances under the report of the Hon. John W. Edmonds. They asked and authorized the Secretary of War to pay them out of their annuities; their request was granted, and the citizen claimants received their pay. Whereupon they gave their ready aid to effect an emigration. The Indians then removed peaceably, and without delay. The undersigned cannot but view the case of the Pottawotamies in 1838, and that of the Miamies in 1842, as *identical*; and they hope and request that the claimants may be protected now as they were then.

We are desirous of seeing the Miamies peaceably removed early next spring to their new homes west of the State of Missouri, and think that as a salutary and preliminary step these debts should be provided for, and the payment secured in like manner as was done in 1838, in the case of the Pottawotamies.

Very respectfully, your obedient servants,

Signed,

E. A. HANNEGAN,
JOHN PETTIT,
JNO. W. DAVIS,
THOMAS SMITH,
CALEB B. SMITH,
E. W. McGAUGHEY,
THOS. J. HENLEY,
CHAS. W. CATHCART,
R. D. OWEN.

WASHINGTON CITY, Nov. 25, 1845.

I concur in the above, because I presume the usage of the agents of the Government, anterior and up to the time when these debts were made, was directly or indirectly to aid persons dealing with the Indians in collecting debts due from them, (the Indians.) But I earnestly hope that the War Department will adopt the strongest measures to prevent the making of debts due from Indians to any person, in all future time after notice—measures efficient to prevent the collection of debts from the Indians or tribes, so far as the action of Government agents can effect that object.

Signed,

W. W. WICK.

I certify that the foregoing is a true copy of the original, made by me this sixth day of December, 1845.

LOUIS F. JONCHERES.

As a citizen of Indiana, well acquainted with all the facts in this case, I heartily concur with the members of Congress in the above request.

Signed,

W. J. BROWN.

I was once among those who thought that the Government should not assume this debt on behalf of the Indians.

I supposed that this agreement, made by the Indians to pay the traders \$12,500 per annum for years, was to cover the difference between the amount *claimed* by them, and the amount *allowed* by the commissioners. This, I doubt not, is the view taken by a very large majority, if not the whole, of those who have heretofore resisted the payment of this claim. Under this impression I thought that the claim was not an equitable one, and therefore that the Government should in no wise lend its aid in its collection. This view of the case is entirely changed in my mind by the fact, (as I now learn it,) that the agreement was executed to cover the difference between the actually *allowed* claims of the traders, and the amount that they received in payment at the time the claims were adjusted, together with about 4 per cent. interest for delay in payment. If this be the true state of the case, it in my judgment makes the claim a *clear, legal*, equitable, and ascertained debt, and one that the Government should lend its aid in securing to its citizens. The most of these traders are my constituents, and many of the Indians reside in my district. We all feel deeply interested in the removal of these Indians; and I am well satisfied that they cannot be peaceably and quietly removed without the assent of the *chiefs*, as well as their creditors. The creditors will not advise their removal until their debts are paid or secured, nor will the chiefs do so; for they feel themselves in good faith, if not *legally*, bound to pay this debt. Under all the circumstances surrounding their case, I join with my colleagues in *urging* the Government to approve this contract, and, as the Indians desire, pay the amount to the traders annually out of their annuities.

Signed,

ANDREW KENNEDY.

The statement by Wm. J. Brown and Hon. Andrew Kennedy are truly copied by me this day.

LOUIS F. JONCHERES.

WASHINGTON, Dec. 10, 1845.

L.

Hon. John Pettit's deposition.

STATE OF INDIANA, *Tippecanoe county.*

Before me, the undersigned, a notary public, in and for said county, personally came John Pettit, of lawful age, and known to me to be a gentleman of truth and veracity, who being by me duly sworn, upon his oath, deposeth and saith: That he called on the President of the United States, the late James K. Polk, in the winter of 1845 & '6, in company with several other members of the Indiana delegation, on the

subject of the confirmation of the national obligation of certain citizens against the Miami nation of Indians, which bears date the 24th of October, 1842; all of which was fully set out in the petition we had previously sent in to the honorable Secretary of War. (See copy hereunto annexed, marked A.) This deponent had been written to and called on by some of the largest claimants, and requested to use his influence to procure the confirmation of said obligation, and to repudiate the subsequent one of the 27th October, 1845, which they alleged was obtained, as well as their release, against the original obligation, through fraud, and the undue influence of the then sub-agent for said Indians, Jas. Sinclear. The Hon. E. A. Hannegan, who had been present at the payment made to said Indians in Oct., 1845, at the Forks of the Wabash, when this injustice was perpetrated against the said claimants, and the release obtained from them as they and he alleged, by *coercion*. The Hon. Andrew Kennedy (now deceased) was also present, with others of the said Indiana delegation. The confirmation and approval by the President of said original obligation was warmly insisted upon by all of us; believing then, as this deponent does now, that it was a fair and just claim, entered into in good faith, and it had been partly complied with by the Indians, it was but an act of justice to the claimants (who were citizens of the State of Indiana) that said obligation should be confirmed and approved, and secured to them before the Indians were removed out of the country.

The Government had then made provision for their removal in accordance with the treaty stipulations of 28th Nov., 1840.

After several interviews with the President on this subject, he stated to this deponent, and the other members of the Indiana delegation then present, that he had examined the whole case with care, and that he "would cheerfully accede to our request, and approve and confirm the said original obligation of the 24th October, 1842, and believed it would be right to do so, were it not for the release then on file in the Department, and to which his attention had been called, signed by the said claimants against said claim," but that "as a lawyer he felt bound to respect the release," &c.

In reply, it was stated by this deponent and other gentlemen, Messrs. Hannegan & Kennedy, (as this deponent now thinks,) that the release had not been voluntarily given by the claimants, but had been *coerced* from them through the corrupt influence of the sub-agent, Joseph Sinclear, and one Madison Sweetser, as we and the claimants believed, and that, therefore, it ought *not* to bar them (the claimants) of their just rights under the original obligation. Much was said by us on this subject, but as the claimants had not, at that time, been able to obtain and lay before the President the testimony necessary to establish the *fraud* fully, and to show that they had been *coerced* out of their rights, the President could only be induced to ratify and confirm the last obligation, dated October 27th, 1845, which called for only six annual instalments.

This deponent thinks now, as then, that if any portion of the original contract of 24th October, 1842, which provided for the payment of the reported balances due under the report of the commissioners who acted under the treaty, was just, that it was all equally just, and should have been confirmed; and from his own knowledge of most of the claimants and their representatives to this deponent, he does not think that they voluntarily and of their own free will released and signed away a portion of their rights, but believes that they were coerced and forced by the undue influence and improper conduct of said sub-agent to sign and release. This deponent, therefore, thinks that, as an act of justice, their rights, under the original obligation, ought to be restored to them, and they thereby relieved from such gross injustice and lasting injury.

This deponent has long known most of said claimants, and knows many of them to be among the most enterprising and worthy citizens of northern Indiana, and from common report, and his own knowledge of some of said claimants, this deponent thinks they have always been ready to aid the Government in carrying out its measures with the Indians who formerly resided in this State, and that their efforts at different times contributed much towards this result, as this deponent thinks and believes; and, therefore, he hopes that justice may be done them in the premises, and that they may be restored to their rights under the the original obligation.

STATE OF INDIANA, *Tippecanoe county*, ss.

John Pettit, being duly sworn, says, that the foregoing statement, so far as it is stated upon his own knowledge, is true; and that he believes the whole to be true.

JOHN PETTIT.

Subscribed and sworn to before me, the undersigned, a notary public within and for said county, this 15th day of September, A. D. 1849.

In witness whereof I have hereto set my hand and affixed my notarial seal, this day and year last above written.

GUSTAVUS A. WOOD, *Not. Pub.*

HON'L WM. L. MARCY, *Secretary of War.*

SIR: The undersigned most respectfully and earnestly request that the debts due the citizens of the State of Indiana by the Miami nation of Indians, as reported and allowed by Comm'rs Clark, Bloomfield, and McCarty, under the treaty of 28th November, 1840, may be secured and paid agreeably to the compact and settlement made between said Indians and the respective claimants on the 24th October, 1842. (See copy of agreement herewith.)

The undersigned unite with the claimants in their desire to see these *admitted* balances secured by the confirmation of that compact before

these debtors (the said Indians) are removed from the State of Indiana, and by which removal the rights of the claimants will be jeopardized and their remedy at law destroyed. When these debts were contracted (prior to 1843) the persons and property of the Indians were, by the laws of Indiana, liable for debt. The writ of "ne exeat" is now in force in our State. The claimants do not wish to resort to that disagreeable alternative. Most of them were active in their efforts to aid the Government in buying out these Indians. It is believed that these very debts had their influence and mainly induced the Indians to give their final assent to the treaty in May, 1841.

It has been the practice of the Government to protect the citizen in like cases. In 1838, *preparatory* to the removal of the Pottawatomies from our State, the same occurrences took place. Those people owed balances, under the report of the Hon. John W. Edmonds. They asked and authorized the Secretary of War to pay them out of their annuities. Their request was granted, and the citizen claimants received their pay; whereupon they gave their ready aid to effect an emigration. The Indians then returned peaceably and without delay.

The undersigned cannot but view the case of the Pottawatomies in 1838 and that of the Miamies in 1842 as *identical*; and they hope and request that the claimants may be protected now as they then were. We are desirous of seeing the Miamies peaceably removed early next spring to their new homes west of the State of Missouri, and think that, as a salutary and preliminary step, these debts should be provided for, and the payment secured in like manner as it was done in 1838 in the case of the Pottawatomies.

Very respectfully, your obedient servants,

(Signed)

E. A. HANNEGAN,
JOHN PETTIT,
JNO. W. DAVIS,
THOMAS SMITH,
CALEB B. SMITH,
E. W. McGAUGHEY,
THOS. J. HENLEY,
CHAS. W. CATHCART,
R. D. OWEN.

WASHINGTON CITY, Nov. 25, 1845.

I concur in the above, because I presume the usage of the agents of the Government, anterior and up to the time when these debts were made, was directly or indirectly to aid persons dealing with the Indians in collecting debts due from them, (the Indians.) But I earnestly hope that the War Department will adopt the strongest measures to prevent the making of debts due from Indians to any person in all future time after notice—measures efficient to prevent the collection of debts from the Indians or tribes, so far as the action of Government agents can effect that object.

(Signed)

W. W. WICK.

I certify that the foregoing is a true copy of the original made by me this sixth day of December, 1845.

(Signed)

LOUIS F. JONCHERES.

As a citizen of Indiana, well acquainted with all the facts in this case, I heartily concur with the members of Congress in the above request.

(Signed)

W. J. BROWN.

I was one among those who thought that the Government should not assume this debt on behalf of the Indians. I supposed that this agreement made by the Indians to pay the traders \$12,500 per annum for years was to cover the difference between the amount claimed by them and the amount allowed by the commissioners. This, I doubt not, is the view taken by a very large majority, if not the whole, of those who have heretofore resisted the payment of this claim. Under this impression, I thought that the claim was not an equitable one, and therefore that the Government should in no wise lend its aid in its collection. This view of the case is entirely changed in my mind by the fact, as I now learn it, that the agreement was executed to cover the difference between the actually *owed* claims of the traders and the amount that they received in payment at the time the claims were adjusted, together with about four per cent. interest for delay in payment. If this be the true state of the case, it [is,] in my judgment, a *clear*, *legal*, equitable, and ascertained debt, and one that the Government should lend its aid in securing to its citizens. The most of these traders are my constituents, and many of the Indians reside in my district.

We all feel deeply interested in the removal of these Indians, and I am well satisfied that they cannot be peaceably and quietly removed without the assent of the *chiefs*, as well as their creditors. The creditors will not advise their removal until their debts are paid or secured; nor will the chiefs do so, for they feel themselves in good faith, if not *legally*, bound to pay the debts under all the circumstances surrounding their case. I join with my colleagues in urging the Government to approve this contract, and, as the Indians desire, pay the amount to the traders annually out of their annuities.

(Signed)

ANDREW KENNEDY.

The statements by Wm. J. Brown and Hon. Andrew Kennedy are truly copied by me this day.

LOUIS F. JONCHERES.

WASHINGTON, Dec. 10, 1845.

M.

Debts of the Miami tribe of Indians.

In pursuance of the resolution of the Senate of the United States of the 24th February, 1846, authorizing the President to apply a certain

portion of the annuities of the Miami Indians to the payment of their debts, in accordance with the draught, request, or other authority of said tribe, and having carefully examined the report of the Commissioner of Indian Affairs made to the Secretary of War on the 24th January, 1846, in relation to said debts, and the agreement of the headmen and warriors of the Miami Indians, on behalf of their tribe, bearing date the 27th October, 1845, I do hereby approve and confirm said report in relation to the amount of said indebtedness, and the manner and condition of its payment, and direct that the sum of \$12,500 be annually retained by the department out of the annuities of the said Miami tribe of Indians for five years, commencing with the year 1846, and applied to the payment of their debts as specified in, and agreeably to, the terms and conditions of said agreement, amounting in all to the sum of \$62,500, rejecting and excluding therefrom, however, the claim of Madison Sweetzer, for \$4,014, and thereby increasing the sums severally stipulated to be paid the other creditors *pro rata*, so far as that amount will extend. The first payment on said debts to be made when the said tribe shall have removed to the country set apart for them, west of the Mississippi river; and the creditors named in said agreement shall have filed with the Secretary of War their acceptance, in such form as may be prescribed, of the said sum of \$62,500, payable as aforesaid, in full payment and satisfaction of all claims and demands on their part, arising, or in any way originating, prior to the 25th October, 1841, against the said tribe, or any one or more of individuals thereof, and forever discharging and releasing them from the same, and all manner of liability to said creditors, or any one or more of them, which may have accrued or originated before that period.

JAMES K. POLK.

Washington city, March 5, 1846.

A true copy of the original.

W. MEDILL.

M 2.

Whereas the headmen and warriors of the Miami tribe of Indians, residing in the State of Indiana, on the 27th day of October, A. D. 1845, by their certain instrument of writing, signed by the said head men and warriors on behalf of said tribe, acknowledged that the said tribe were indebted to the undersigned (merchants and traders with the said Indians) in the various sums therein mentioned, amounting in all to the sum of seventy-five thousand dollars, including a claim of four thousand and fourteen dollars to one Madison Sweetser, and agreed to set apart and pay out of the annuities of said tribe the sum of twelve thousand five hundred dollars for the space of six years, to wit, 1845, 1846, 1847, 1848, 1849, 1850, to be paid over and received by the undersigned on the amounts thus acknowledged to be due, *pro rata*, in full satisfaction of all claims and demands of the undersigned against the said Miami tribe and every individual thereof, with the understanding and condition

that no payment after the first for the year 1845 (which has been made) should be considered due, or to be paid, until after the removal of the said Miami tribe west of the Mississippi river.

And, whereas the said head men and warriors thereby also requested the President of the United States to approve said agreement and to cause the said sum of twelve thousand and five hundred dollars to be retained at the city of Washington for the space of five years, and paid out to their creditors as named in said agreement. And whereas, by a resolution of the Senate of the United States of the 24th of February, 1846, the President of the United States was authorized to apply a certain portion of the annuities of the Miami Indians to the payment of their debts in accordance with said agreement of said Miami Indians so made with the undersigned as aforesaid. And whereas the undersigned claimants as aforesaid have received a certified copy of the approval of said agreement by the President of the United States, and his order in the premises, in the words and figures following, to wit:

“Debt of the Miami tribe of Indians. In pursuance of the resolution of the Senate of the United States of the 24th Februry, 1846, authorizing the President to apply a certain portion of the annuities of the Miami Indians to the payment of their debts in accordance with draft, request, or other authority of said tribe, and having carefully examined the report of the Commissioner of Indian affairs made to the Secretary of War on the 24th of January, 1846, in relation to said debts, and the agreement of the headmen and warriors of the Miami Indians in behalf of their tribe, bearing date the 27th October, 1845, I do hereby approve and confirm said report in relation to the amount of said indebtedness and the manner and condition of its payments, and direct that the sum of and applied to the payment of their debts as specified in, and agreeably to, the terms and conditions of said agreement, amounting in all to the \$12,500 be annually retained by the department out of the annuities of the said Miami tribe of Indians for five years, commencing with the year 1846, sum of \$62,500, rejecting and excluding therefrom, however, the claim of Madison Sweetser for \$4,014, and thereby increasing the sums severally stipulated to be paid the other creditors *pro rata*, so far as that amount will extend. The first payment on said debts to be made when the said tribe shall have removed to the country set apart for them west of the Mississippi river, and the creditors named in said agreement shall have filed with the Secretary of War their acceptance, in such form as may be prescribed, of said the sum of \$62,500, payable aforesaid in full payment and satisfaction of all claims and demands on their part arising, or in any way originating, prior to the 25th December, 1841, against the said tribe, or any one or more individuals thereof, and forever discharging and releasing them from the same and all manner of liability to said creditors, or any one or more of them, which may have accrued or originated before that period.

(Signed)

JAMES K. POLK.

Now, therefore, we, the undersigned creditors as aforesaid, and parties to the said agreement of the 27th of October, 1845, in consideration

of the premises, do, by these presents, accept the said sum of sixty-two thousand five hundred dollars in full payment and satisfaction of all claims and demands of every name and nature, arising or in any way originating prior to the 25th day of December, A. D. 1841, against the said Miami tribe of Indians, or any one or more individuals thereof, in favor of us or any one or more individuals of us. And that upon the receipt thereof by us or our executory administrators, or assigns, the said Miami Indians, and each and every individual thereof, shall be forever discharged and released from all claims and demands of every name and nature in favor of us, or any one or more of us, arising, or in any way originating, prior to the said 25th of December, 1841.

J. D. STAPLEFORD,
 AGNES ROUSSEAU,
 And PETER L. RUNYAN,
Administrators of Rousseau, deceased.
 H. McCULLICH, *Cashier, assignee.*
 W. G. & G. W. EWING,
 TABER & HAMILTON,
 EWING BARLOW & CO.,
 WILLIAM SMITH,
 JOHN W. MILLER,
 ALEXANDER WILSON,
 ALEXANDER WILSON & CO.,
 W. H. PRINCE & CO.,
 DE FUES & FENNIMORE,
 D. R. BEARSS,
 BUSH & TOGGART,
 L. B. BERTHOLD,
 ALBERT COLE,
 ALPHONSO COLE,
 JOSEPH BOURLIEU.

I, Orlando Brown, commissioner of Indian affairs, do hereby certify, that the above and foregoing is a true copy from the original on file in this office.

ORLANDO BROWN.

OFFICE INDIAN AFFAIRS,
February 27, 1850.

N.

WAR DEPARTMENT, OFFICE INDIAN AFFAIRS,
November 13, 1845.

SIR: I have received your letter of the 9th inst., in which you ask several questions, to which you desire answers, respecting the payment of the balances due on claims against the Pottawotamie Indians, on the award of Hon. J. W. Edmonds.

I do not deem it necessary to answer your inquiries in the order stat-

ed by you, as the following response will, I apprehend, cover the material points embodied in them, viz: That the records and files of this office show that the balances due to claimants, and remaining unpaid after the special funds provided in the several treaties for their payment had been exhausted, were liquidated through the agency of the disbursing agent of this office, out of the annuities due the Pottawotamies for the years 1838-'39. It further appears, that a majority of the chiefs recommended that course, and that Senator Tipton urged the same upon the consideration of the Department.

Very respectfully, your most obedient servant.

(Signed)

W. MEDILL.

Col. G. W. EWING,

Of Indiana, now in Washington.

O.

WAR DEPARTMENT, OFFICE INDIAN AFFAIRS,

19th November, 1845.

SIR: I have received your letter of the 12th inst., in which you ask for copies of certain papers on file in this office. The accompanying copies of letters from Col. A. C. Pepper, of 18th September, and from Gen. John Tipton, are the only papers embraced in your request that I feel at liberty to furnish under the rules of this Department.

Very respectfully, your obd't serv't.

(Signed)

W. MEDILL.

Col. G. W. EWING,

Washington, D. C.

(N. B.) The letters of Gen. Tipton and Col. Pepper will be seen, marked T and P. The petitions of the Indians praying that their debts might be paid, bearing dates 27th and 28th July, 1838, with the Hon. Joel R. Poinsett's acceptance endorsed on them, are on file in the War Department; but by reason of a regulation of that department, the hon. Commissioner of Indian Affairs did not feel authorized to furnish us the copies asked for. Reference is, therefore, hereby made to them on file, to prove what we say in regard to them.

(Signed)

W. G. & G. W. EWING.

November 20th, 1845.

P.

FORKS WABASH, *Sept. 18, 1838.*

SIR: I have the honor to state, that most of the citizens of this country holding claims against the Pottawotamies, exerted their influence in aid of the removal of the tribe to the country assigned them west of the

Mississippi. Col. G. W. Ewing and Cyrus Tabor, esqrs., two of the largest claimants, were active, zealous, and energetic in their personal efforts during the whole time the Indians were being collected and prepared for the commencement of their journey west; and both accompanied the emigrants several days after they started.

All the chiefs on this side of the Mississippi, previous to their departure with the emigration, signed in my presence a petition, requesting your Department to pay at Washington city the claims due from the tribe, as adjusted in conformity to the decision of the Hon. Secretary of War, and the report of John W. Edmonds, esqr.

A compliance with the request contained in that petition, I am fully persuaded, will be more satisfactory to the Indians and all concerned, than any other plan which can be adopted to carry into effect the honest intentions of the Pottawotamies, as expressed at the time of the negotiation of the several treaties with them.

I am sir, very respectfully, your obedient servant,

(Signed)

A. C. PEPPER,
Superintendent.

Hon. C. A. HARRIS,

Comm'r Indian Aff's, Washington city.

Q.

FALLS OF THE WABASH,
September 17, 1838.

Hon. C. A. HARRIS.

SIR: My note of the 23d inst. informed you of my intention to visit the camp near Logansport, in which Judge Polke and myself had left 21 Indians, mostly sick, on the 10th inst. On visiting them, Captain Hull and Doctor Little informed me that one died soon after our departure, and that the number had been increased to 32, by the arrival here of part of the Indians which we left at Chippewa on the 6th inst., with others coming on to this camp to follow their friends west. Col. Pepper was engaged with the Miamies at the Forks of the Wabash; no one here to direct what should be done, nor was there one dollar to defray expenses. Mr. Tilley was here, and I requested him to visit Col. Pepper's camp, and wrote to Col. P. to come here. I furnished my own money to defray expenses. Col. P. arrived yesterday, and this morning the Indians set out west. Col. P. will report the details. My letter of 27th last month informed you that Col. G. W. Ewing had agreed to aid in getting up an emigration of the Pottawotamies from this State. It is due to truth and to Col. E., that I should inform you that no man could have been more faithful nor more efficient; he exerted himself day and night until the party left this place; he used his own money to defray expenses, and he done more than any other could have done. He brought in more than one party of Indians that, without him, would not have went west at this time; to him I feel much

indebted for in the complete success that crowned our united efforts this delicate matter.

I have been one month employed in this business, and can only hope that my motives may be properly understood by every one.

Your obedient servant,

(Signed,)

JOHN TIPTON.

R.

WAR DEPARTMENT,
Office Indian Affairs, August 7, 1838.

SIR: It is exceedingly desirable that the removal of the Pottawotamies from Indiana should be effected this season. Your long intercourse with them has given you an influence, of which the department is desirous to avail itself in accomplishing this object. The general superintendence of the operations has been, as you know, entrusted to Col. Pepper, and he will continue to conduct them under the direction of this office. There is, therefore, no particular post or class of duties that can be assigned to you. But if you will contribute your efforts in aid of those of the superintendent, and give him the benefit of the suggestions that occur to you, with the purpose and desire to ensure eventual success, a liberal compensation will be made to you.

Very respectfully, your most obedient servant,

(Signed,

C. A. HARRIS, *Comm'r.*

Col. G. W. EWING,

Logansport, Indiana.

[*Endorsed.*]

"Col. G. W. Ewing accepted the within appointment when tendered to him. He immediately entered the public service, collecting the Pottawotamie Indians and preparing them for moving. Next he exerted himself both day and night, employed his own interpreters, defraying expenses with his private funds; his exertions contributed much to the successful issue of the effort to organize the party for emigration."

(Signed,)

JOHN TIPTON.

November 13, 1838.

I concur in the above statement.

(Signed,)

A. C. PEPPER, *Superintendent.*

November 13, 1838.

S.

WAR DEPARTMENT,
Office Indian Affairs, September 17, 1838.

Col. G. W. EWING,

Logansport, Indiana.

SIR: I have had the honor to receive your letters of the 2d and 6th instant, communicating very gratifying intelligence relative to the emi-

gration of the Pottawotamies. The department duly appreciates your exertions in this business, and I desire that you will, through me, accept its thanks for the zeal and ability with which you have co-operated in these transactions.

Any reasonable and proper expenses which you have incurred, and within the province of this office to allow, will be remunerated to you; but a definitive decision must be postponed until they shall be exhibited.

In relation to your proposal to take charge of the emigration next spring of the remnant of the Pottawotamies, I am not now prepared to give you a decisive answer. The subject will be duly considered, and you shall be seasonably informed of the determination of the department.

Very respectfully, your most obedient servant,
(Signed,) C. A. HARRIS, *Comm'r.*

T.

FALLS OF THE WABASH, *Sept. 25, 1838.*

SIR: With this I have the honor to transmit a letter from Messrs. Ewing, Walker & Co., and Allen Hamilton & Co., upon the subject of the balances due them from the Pottawotamie Indians; and it is but an act of justice for me to join them in the request, that the department will retain the balance due to the claimants from the Indian annuity, and pay it to the claimants in New York. Few men have been more zealous—*none more efficient*—than the *members of these firms in effecting the organization* of the late emigration of the Pottawotamies, especially Messrs. G. W. Ewing and C. Taber; to them the Government is much indebted for faithful and efficient aid, both in personal services, *day and night*, as well as in *means* to defray the expenses of putting the party in motion from Twin lake.

Very respectfully, your most ob't servant,

Signed, JOHN TIPTON.

Hon. C. A. HARRIS, *Comm'r Ind. Aff's.*

U.

The report of the commissioners, Clark, Bloomfield & McCarty, shows:

1st. The total amount of claims presented and claimed,		
to be	- - - - -	\$555,339 00
2d. Total amount allowed by them, to be	- - - - -	388,838 72
		<hr/>
		\$166,500 28

They rejected and disallowed this amount—more than one-third of the amount claimed.

They allowed on claims due <i>before</i> the treaty	-	-	\$185,338 72
They allowed on claims due <i>after</i> the treaty	-	-	203,500 00

\$388,838 72

The treaty, as amended, appropriated in all, \$300,000

Of this it appropriated to the chiefs of the nation, by 4th art. of the treaty,

40,000

260,000 00

\$128,838 72

Added - - - 68 68

Leaving unpaid, as per their report - - - \$128,907 40

During the whole investigation the Indians were all present, and had the best counsel retained that could be found in the country. The commissioners decided with great severity; so much so, that the Indians were pleased, and the claimants complained very much.

The Indians refused to recognise the revision had at Washington city, and would not assent to Mr. Crawford's report of 13th July, 1842, by which he increased the allowances, in all, over \$40,000. They refused to do any thing but to sanction the report of the *three commissioners*, and they therefore agreed, on 24th October, 1842, to pay these balances, and to allow some interest, as set forth and stated in the agreement then entered into.

V.

This exhibit shows that the application of the \$12,500, for seventeen years, would not pay the balances found due, with six per cent. interest. Thus:

Amount of balances due, as per commissioners' report, Feb. 25, 1841.

	Miami treaty, 28th Nov., 1840	-	-	-	\$128,907 44
	Int. on this from 25th Feb., 1841, to 24th Oct., '42—1 year and 8 months—at 6 per cent., would be	-	-	-	12,890 00
1842.					\$141,797 44
Oct. 24	By cash, 1st instalment	-	-	-	12,500 00
					\$128,297 44
	To int. on this to 24th Oct., '43, 1 year, is				7,697 82
					\$135,995 26

1843.	Amount brought over,	\$135,995 26
Oct. 24	By cash, 2d instalment - - - -	12,500 00
	To int. on this to 24th Oct., '44, 1 year, is	\$123,495 26 7,409 70
1844.		\$130,904 96
Oct. 24	By cash, 3d instalment - - - -	12,500 00
	To int. on this to 24th Oct., '45, 1 year, is	\$118,404 96 7,104 24
1845.		\$125,509 20
Oct. 24	By cash, 4th instalment - - - -	12,500 00
	To int. on this to 24th Oct., '46, 1 year, is	\$113,009 20 6,780 54
1846.		\$119,789 74
Oct. 24	By cash, 5th instalment - - - -	12,500 00
	To int. on this to 24th Oct., '47, 1 year, is	\$107,289 74 6,437 34
1847.		\$113,727 08
Oct. 24	By cash, 6th instalment - - - -	12,500 00
	To int. on this to 24th Oct., '48, 1 year, is	\$101,227 08 6,073 62
1848.		\$107,300 70
Oct. 24	By cash, 7th instalment - - - -	12,500 00
	To int. on this to 24th Oct., '49, 1 year, is	\$94,800 70 5,688 00
1849.		\$100,488 70
Oct. 24	By cash, 8th instalment - - - -	12,500 00
	To int. on this to 24th Oct., '50, 1 year, is	\$87,988 70 5,279 28
1850.		\$93,267 98
Oct. 24	By cash, 9th instalment - - - -	12,500 00
		\$80,767 98

1850.	Amount brought over,	\$80,767 98
	To int. on this to 24th Oct., '51, 1 year, is	4,846 02
1851.		\$85,614 00
Oct. 24	By cash, 10th instalment - - - -	12,500 00
		\$73,114 00
	To int. on this to 24th Oct., '52, 1 year, is	4,386 84
1852.		\$77,500 84
Oct. 24	By cash, 11th instalment - - - -	12,500 00
		\$65,000 84
	To int. on this to 24th Oct., '53, 1 year, is	3,900 00
1853.		\$68,900 84
Oct. 24	By cash, 12th instalment - - - -	12,500 00
		\$56,400 84
	To int. on this to 24th Oct., '54, 1 year, is	3,384 00
1854.		\$59,784 84
Oct. 24	By cash, 13th instalment - - - -	12,500 00
		\$47,284 84
	To int. on this to 24th Oct., 1855 - -	2,837 04
1855.		\$50,121 88
Oct. 24	By cash, 14th instalment - - - -	12,500 00
		\$37,621 88
	To int. on this to 24th Oct., 1856 - -	2,257 26
1856.		\$39,879 14
Oct. 24	By cash, 15th instalment - - - -	12,500 00
		\$27,379 14
	To int. on this to 24th Oct., 1857 - -	1,642 74
1857.		\$29,021 88
Oct. 24	By cash, 16th instalment - - - -	12,500 00
		\$16,521 88
	To int. on this to 24th Oct., 1858 - -	991 32
1858.		\$17,513 20
Oct. 24	By cash, 17th instalment - - - -	12,500 00
	In all, seventeen instalments - - -	\$5,013 20

W.

Hon. James Rariden's statement.

INDIANAPOLIS, November 23d, 1849.

Hon. THOMAS EWING:

Being called upon by gentlemen interested in claims against the Miami Indians, provided for under the treaty of 1840, I make the following statement of facts: That after the ratification of the treaty of 1840, I was written to by the Indians, (I believe through the sub-agent,) to be retained as their counsel before the board, provided for in the treaty, to resist the claims that might be brought before the board for investigation and allowance; that I became retained as counsel, and attended the board; that during the process of investigation I became satisfied, and so did the principal chiefs, that the sum set apart in the treaty to pay the debts of the individuals of the tribe would be greatly deficient to pay the amounts that would be allowed by the commissioners from the proofs; and I informed and advised the Indians that as to the excess of debts above the amount set apart by the treaty for their payment, the nation was not bound to pay; that they had only made the individual indebtedness national so far as that fund would go; and that as to the balances, I advised the chiefs to let the traders and creditors look to the individuals whom they had trusted for the balance of these debts. This was my counsel to them, at all times, as their legal adviser, but I perceived they were not satisfied; I stated this many times in full counsel; they finally told me that they wished the whole individual indebtedness of the nation to be extinguished; they said if it was not the traders would harrass the Indians for the balance, and take their poney and other property, and embitter them against the chiefs, many of whom had property, and that their lives would not be safe; that those improvident Indians, who might be harrassed, would lay the blame on them, (the chiefs,) and that they (the mass of the Indians) all understood at the time of making those debts that they were to be paid out of the proceeds of the treaty of 1840, and that the traders had dealt with them with that understanding, and had so informed them at the time of making the debts; and that there would be no safety to them (the chiefs) if they were not paid; that after the amount of indebtedness was ascertained by the commissioners, which, to the best of my recollection, exceeded the sum set apart by the treaty to pay them by upwards of a hundred and thirty thousand dollars, was ascertained, the Indians proposed to me to make an arrangement with the creditors for the payment of the balance, and offered me five hundred dollars to effect an arrangement with them to take the balance in annual instalments, as they were to receive it from the United States under the said treaty of 1840, of \$12,500 per annum, (I believe,) until the whole was paid. I remonstrated against such further assumption of the individual debts by them, but the chiefs persisted in it, and urged me to make an effort to settle the balance in that way, and I promised; the

next spring or summer I learned, somewhat through the Indians and most probably through the sub-agent, (Allen Hamilton, in whom they had great confidence,) that the traders or creditors were making efforts at Washington, before the Indian Department, to have the amount of their debts increased above the amount allowed them by the commissioners appointed under the treaty, and at their instance I went to the city to prevent that if possible; I do not remember the time precisely, but I know Mr. Spencer was then Secretary at War; when I got to the city I found the rumor true, and remonstrated both to the Secretary of War and to Mr. Crawford, then the head of the Indian bureau, in the opposition I made to the enlargement of the amounts allowed by the War Department, and in my opposition to having the balances paid at all out of the national purse, (for I opposed both;) I thought I shook the confidence of the creditors that were present, at least those of the largest—Elwing, Taber, and Bass—in the security of the balance of these debts: and they seemed to think hard of me for the course I took in opposition to these claims, and imputed to me feelings of personal hostility to all Indian traders. I assured them that there was nothing of that, and that I would be willing to see these debts paid, and suggested that I did not know but the Indians would be willing to recognise their balances as debts against the nation, if they would agree to take it as they had promised, when the debt was contracted, out of the proceeds of the treaty of 1840, as it became due to them. I perceived immediately that those present would accede to that kind of arrangement; a good deal of conversation passed between those creditors and myself in regard to it; I did not inform them any thing about what the Indians had said to me on that subject, but told them that I would advise the Indians to go that far but no farther; I immediately informed the Indians that I could make such an arrangement with the traders, (as we called them,) as they desired, relative to the payment of the balance found due by the commissioners. Upon the receipt of this they requested me by letter to come out to the payment that fall and do it if I could. I went out, as requested, to the payment; when I got there I found the traders (the creditors,) claimed more than had been allowed by the commissioners, and insisted upon it, and among other creditors a Madison Sweitzer, whose claim had been disallowed by the commissioners, claimed eight or nine thousand dollars, and insisted upon it being paid; the Indians universally, so far as I could learn, seemed peculiarly hostile to Sweitzer's claim; he went before the counsel in my presence and urged it himself; they replied at the end in Indian as it was interpreted, that they would not hear him; that they knew all about it; that it was dishonest and no good. I advised them to refuse to pay or recognise any other debts than those allowed by the commissioners to the other traders—and they did so, and the traders persisted for several days to demand more, as justly due them, and insisted upon its payment; and the Indians persisted in refusing to recognise any other amounts than found and allowed by the commissioners, all the while directing me as their counsel to offer the payment of the amount found by the commissioners in the manner before indicated,

out of the proceeds of the treaty of 1840. After several days' altercation the traders proposed to take it in that way if interest should be allowed upon their balances—this the Indians promptly refused; the traders finally proposed to take these balances in that way if the Indians would throw in two additional instalments as an equivalent for interest; upon this proposition the Indians went into counsel to consider of it, and I went with them and made a calculation for them of the amount of interest per annum; two instalments or twenty-five boxes as they call it, would come to on the whole sum, and informed them; after some time, they determined to accede to the proposition; I explained the whole matter, and I know they understood it, for many of them talked English; they directed me to reduce the whole arrangement to writing, and I done so; but as it had been agreed upon and explained to them at the time how many years it would take to pay the debt off out of that fund, and they all seemed to understand it just as I did; some of them had counted up the years it would take themselves; they all seemed resolved that it should be paid out of that annuity, and no other, from the beginning; and no one but myself objected to consider those balances as a national debt, and when I would remind them that it was just as they pleased, whether they paid the balances above, they responded as I have before stated. The arrangement I drew up in exact conformity with the agreement between the parties, and in all its terms and stipulations as the Indians desired it, for their perfect security against future demands from the same indebtedness; and I think there was a provision in it, that all who took under it released all other demands against the nation or the individuals of the nation. Upon the consummation of the arrangement the Indians evidently considered it as a triumph over the traders, in bringing them for once to their own terms, and they paid me the fee with great freedom; and they always afterwards, up to the latter part of 1843, when I ceased to visit them, expressed themselves not only satisfied, but gratified with the arrangement as beneficial to them; and I repeat, that I knew the chiefs and headmen understood it just as it is expressed in the written agreement referred to, and to which I and others are subscribing witnesses. These are the facts, and the whole facts, so far as the Indians and myself were concerned in the arrangement, and to which I am willing to testify in a court of justice if called upon. I write this to place this transaction in its true light before the department.

Very respectfully,

JAMES RARIDEN.

Hon. THOMAS EWING.

X.

STATE OF MISSOURI, *Jackson county*, ss.

Before me, the undersigned, James B. Davenport, an acting justice of the peace in and for said county, personally came John Bourie, an half breed Miami Indian, and known to me to be a man of truth

and veracity, who, being duly sworn, upon his oath deposeth and says, that he is a half-breed Miami Indian, and resides with the Miami tribe of Indians about forty miles southwest of here; that he draws annuities with them, and is, and always has been, considered a Miami Indian; that he is a cousin to Topeah, deceased, who was late the head chief of the Miami nation; that he speaks und understands the English language, and also the Miami language, (the latter being his mother tongue;) that he has some education, though not very much; that the annexed is his own signature. This deponent says he was born in Indiana, and resided there as a member of the Miami nation up to the year 1846, when he came with the tribe to this country; that he was present at the forks of the Wabash, in the State of Indiana, when the Miamies made their last treaty with the United States, viz., on the 28th November, 1840; that he was also present when the nation, in October, 1842, gave their national obligation to pay their creditors the balances then due them; that they made payments on said debts in 1842, 1843, and 1844, by paying \$12,500 each year; that in 1845 the old obligation was given up, and another one was taken by the creditors for some three or four instalments less than the first one; that this was brought about by Joseph Sinclear, who was then the sub-agent for our nation, and this deponent understood he was to receive from the nation several boxes of money for getting them clear of paying the first obligation. This deponent cannot now recollect the exact amount the nation was to pay him, but knows that at the payment made by him in the year of 1845, the chiefs (or rather the principal chief) Topeah, paid said Sinclear two hundred or two hundred and fifty dollars on behalf of the nation, in part payment, as this deponent then understood, for effecting the saving of the three or four yearly instalments. This deponent then heard that said Sinclear was to receive some more money at the next payment of annuities for the year 1846, out west. But as he did not remain as the sub-agent, and was not here when that payment was made, he never received any further payment from the nation, as this deponent knows of. This deponent was a young man at this time, (being now about twenty-four years old,) and did not particularly charge his mind with these transactions; it was arranged, as he heard from the Indians, between the sub-agent and a few of the headmen. This deponent further deposeth and says, that said Sinclear was not (after he had been a while the sub-agent) much respected by the Miamies; they did not consider him a good officer, and had but very little confidence in him; he had made them a great many very kind promises which he did not fulfil, and for this reason they did not like him. This deponent has acted as the interpreter for the nation some part of the time since he has been out in this country. This deponent has drawn his yearly annuities from the United States as a member of the Miami nation ever since he can recollect; his mother was a full Miami and aunt to the aforesaid principal chief, Topeah; the celebrated chief, White Raccoon, who was the first Miami who signed the Miami treaty, in October, 1826, was an uncle to this deponent.

This deponent knew Madison Sweetser in Indiana; he tried a long time to get the Miamies to pay his claim, but they refused to do so, for we all knew that the nation did not owe him, and that his claim was not just. This man and the said sub-agent were good friends, and were much together at the time of the payment in 1845.

The sub-agent, this deponent thinks, wanted the nation to pay some money on said Sweetser's claim, which they did not like to do.

And further this deponent saith not.

JOHN BOURIE.

Sworn to and subscribed before me this 22d day of October, 1849.

JAMES B. DAVENPORT,

J. P. for Kansas township, co. of Jackson, State of Mo.

STATE OF MISSOURI, *Jackson county, ss.*

I hereby certify, that James B. Davenport, esq., before whom the foregoing affidavit was made, and who has thereunto subscribed his name, was at the time of so doing a justice of the peace in and for said county, duly commissioned and sworn, and that his signature thereto is genuine.

In testimony whereof I have hereunto set my hand, and affixed my seal of office, as clerk of the circuit court of said county, [SEAL.] at the city of Independence, the 23d day of October, A. D. 1849.

SAM. D. LUCAS, *Clerk.*

I certify that I have known, and do know, John Bourie, a half breed Miami Indian, and believe him to be a man of truth and veracity.

He is a worthy and intelligent man, as much so, perhaps, as any other man in his nation of his age.

I would have confidence in, and respect for, any statement he might make.

SAM'L LEWIS.

Westport, Missouri, Oct. 24th, 1849.

Y.

Deposition of Allen Hamilton.

STATE OF INDIANA, *Allen county, ss.*

Personally appeared before me, the undersigned, a notary public, in and for said county, Allen Hamilton, a creditable citizen of lawful age, who being duly sworn, deposeth and saith: That he was one of the commissioners of the treaty with the Miami Indians of the 28th Nov'r, 1840, and was their sub-agent, and present on the 24th of October, 1842, when said Indians in their council deliberated and agreed to pay the claimants under said treaty the balances reported to be due to them by the three commissioners, Clark, Bloomfield, and McCarty, acting under the 3d article of said treaty, with an allowance for interest on the deferred instalments; that they might be paid out of the annuities provided

under said treaty, and for this purpose they offered said claimants, by their attorney, James Rariden, esq., their national obligation, dated 24th October, 1842, which was signed and delivered in open council of said tribe of Indians, and which they requested the Government to ratify and approve, and which was accepted by said claimants in full satisfaction of all balances due them from said nation under said treaty.

And thereupon they paid to said claimants the first instalment of \$12,500, and at the payments of 1843 and 1844 they made like payments; all of which three instalment payments were officially reported by me to the honorable Commissioner of Indian Affairs at Washington city.

Deponent, in the winter of the year 1845, resigned said sub-agency, and was succeeded by General Samuel Millroy, who dying shortly after, was succeeded by Joseph Sinclear. Said Sinclear was intimate and friendly with one Madison Sweetser, a rejected claimant under said treaty, and was much under his influence as deponent believes; and deponent heard that said Sweetser was making efforts to induce the Indians, or said sub-agent, to secure or collect his rejected claim or a part thereof; his claim having been entirely rejected by the commissioners, (and by the Government, after an investigation at Washington city in the summer of 1842,) as this deponent heard and believes, and by the Indians frequently in councils in the presence of this deponent, the chiefs of said Indians alleging that the goods *pretended* to have been sold by said Sweetser belonged to the Indians; that he had made a *pretended* sale and taken notes for them, and retained most of the goods, and that his claim was considered by the Indians fraudulent. And this deponent informed said sub-agent, Sinclear, soon after his appointment, what the Indians thought of said Sweetser's claim. At the payment, in the fall of 1845, the chiefs invited deponent to attend and assist them with his counsel and advice. Deponent did so, and soon discovered that said Sweetser, with the countenance of said Sinclear, had excited jealousy and discord amongst said Indians; from what deponent learned from the chiefs and interpreters, the design of said Sweetser and Sinclear was to prevent the \$12,500 then due and payable to the claimants, being paid, upon a pledge on their part that they would defend them (the Indians) from all liability on their said national obligation of the 24th October, 1842, aforesaid, and that they would promise the same to be annulled and destroyed by the Government, to which some of the lower Indians consented.

But the principal chiefs, doubting the authority or ability of said Sinclear and Sweetser to destroy said national obligation, and being disposed to pay the balances due under the award of said commissioners, refused to agree thereto, and persisted in paying over to said claimants the \$12,500 then due them.

Subsequently it was proposed that said Indians would give a new obligation for six yearly instalments of \$12,500 each, in lieu of the former one, and provide therein that \$4,014 should be allowed to said Madison Sweetser on his rejected claim.

This, it was understood, would meet with the approval and sanction of said sub-agent, Sinclear, and the claimants were required to execute a *release* against the former national obligation, and all indebtedness to the date of said obligation.

Lafontaine, the principal chief, expressed his wish to Senator Hannegan, (in the presence of this deponent,) to pay the balances due claimants under the award of the commissioners; but that said Sinclear was using the influence of his office, and through it of the Government, with the Indians, to prevent the carrying out of their national obligation.

Many of the claimants were unwilling to sign said release, and declared it to be corrupt oppression by Sinclear, and that they were coerced and deprived of their rights by an oppressive use of the influence of the Government's sub-agent.

From what deponent saw of the conduct of said Sinclear and Sweetser, deponent was of the opinion that they acted in concert, and that their opposition to the national obligation of 1842 was, to require a new national obligation to be given, and therein provide for the rejected claim of said Madison Sweetser, in which they succeeded.

Deponent believes that said Indians would have satisfactorily paid their instalment of that year of \$12,500, as they had done for the three years past, but for the interference of said Sweetser and Sinclear, and that, if left to their own free will, would have cheerfully continued to carry out their national obligation of the 24th October, 1842, and honestly fulfilled it.

Deponent advised the claimants to submit to the dictation of the influence of the Government's sub-agent, and that though thus coerced to sign the *release*, Hon. Senator Hannegan had promised he would make a full representation of the circumstances to the Department at Washington, that they might be relieved from the oppression brought upon them by the improper use of the influence of the office said Sinclear held; and if not thus relieved, that they had better secure the largest part of said debts than to run the risk of losing all, if said Sinclear was continued in office, and persisted in his oppressive course. Deponent could not but be surprised to see a new national obligation acceptable to said sub-agent, when it provided to pay \$4,014 to Sweetser's claim, which was repudiated and rejected by the commissioners under the treaty, by the Indians in council, and by a subsequent investigation at Washington city, by the Commissioner of Indian Affairs, Hon. T. Hartley Crawford, as this deponent was informed.

This deponent believes, and cannot doubt, that personal animosity to some of the traders, and providing for the rejected claim of Sweetser, was the motive of the opposition of said sub-agent, Sinclear, to the Indians' faithfully carrying out and paying in full, their national obligation of 1842.

The Indians, from the time they made that obligation, until this deponent resigned the Miami sub-agency, always expressed their entire satisfaction with that obligation.

This deponent states that he had not the most remote interest in any of the claims investigated and allowed by Commissioners Clark, Bloomfield, and McCarty, under the treaty of 1840.

ALLEN HAMILTON.

Sworn to and subscribed before me, this fifth day of September, A.

[L. s.] D. eighteen hundred and forty-nine.

S. S. BASS, *Notary Public*.

Z.

STATE OF INDIANA, *Miami county, ss.*

Before me, the undersigned, an acting justice of the peace in and for said county, personally came James T. Miller, of lawful age, to wit, of the age of thirty-seven years, and known to me to be a gentleman of truth and veracity, who being by me duly sworn upon his oath, deposeth and says—

That he was present at the Forks of the Wabash, in the State of Indiana, on the 24th day of October, 1842, when the Miami nation of Indians executed to their creditors a national obligation for the payment in yearly instalments of the balances due and then remaining unpaid on the report of the three commissioners, Clark, Bloomfield, and McCarty, appointed under the treaty of the 28th of November, 1840, together with an additional allowance then consented to by the Indians, for interest on the deferred instalments.

This deponent is under the impression that he witnessed the signing of said national obligation, and knows that, at the payment of annuities for that year, and also for the years 1843, and 1844, said nation paid on said national obligation each year the sum of twelve thousand and five hundred dollars.

This deponent thinks that the opposition made to this obligation in 1845 was brought about by the efforts of Joseph Sinclear, the then sub-agent, and one Madison Sweetzer, whose claim had been rejected and disallowed by the aforesaid three commissioners; and from the intimacy which existed between said Sinclear and said Sweetser, this deponent thinks they acted together, and expected to make money for their joint benefit, either off the nation, or the claimants, and has heard since, and believes, that Sinclear did get pay from the nation for destroying said original agreement of 24th Oct., 1842.

This deponent thinks, that had it not been for the official influence and power of the said sub-agent thus used, the nation never would have objected, but would have continued to pay the instalments yearly, as they had done ever since October, 1842.

This deponent knew said Sinclear for many years, and does not think he was a good, or honest sub agent. He was much disliked by the Miami Indians, after he had been a short time their sub-agent; they had no respect for him, or confidence in his integrity, as they often stated to this deponent.

This deponent accompanied the emigration of Miamies, under said Sinclear, from this country to their new country, west of the State of Missouri, in the fall of 1846; they were taken from here to Cincinnati in canal boats, and from there to Kansas landing in a steamboat. This deponent was with them all the way, and witnessed the conduct of said Sinclear, and thinks it was grossly negligent towards the Indians, and undignified and unbecoming a Government officer. He paid little or no attention to the wants or comforts of the Indians, many of whom were sick, but spent much of his time in drinking and gambling; amusements which he appeared very fond of.

After reaching their destination west, the nation felt very much dissatisfied at the sub-agent for his treatment of them on the way, and they reported it all to the resident sub-agent in the west, Col. A. J. Vaughan, and requested him to transmit it to the Department at Washington.

This deponent has known George Hunt, an educated half-breed Miami, who has long resided in this county, and is a respectable and worthy citizen, and in all matters touching the business of his nation, this deponent would place full reliance on his statements.

This deponent also knew To-pe-ah, *alias* (Lafontaine,) the principal chief of the Miamies, and most of the other chiefs and headmen, who acted on behalf of, and signed that national obligation of the 24th October, 1842, and believes they were honest, and if they had been left to themselves, would have cheerfully complied with the conditions of that agreement, and thinks they were prevented by the corrupt and interested exertions of said Sinclear, and his confederate in that matter, Madison Sweetser; both of whom have, as this deponent is informed and believes, lately left this country and gone to California. And further this deponent saith not.

JAMES T. MILLER.

Subscribed and sworn to before me, this 24th day of November, A. D. 1849.

WILLIAM A. MCGREGOR, [SEAL.]

Justice of the Peace.

STATE OF INDIANA, *Miami county*, ss.

I, James B. Fulwiler, clerk of the Miami circuit court, in said State, do hereby certify, that William A. McGregor, whose name is subscribed to the foregoing affidavit, was at the time of his signing the same, and is now, an acting justice of the peace in and for said county, duly commissioned and qualified according to law, and that the signature above, purporting to be his, is genuine.

In witness whereof I have hereunto set my hand and seal of said court, this 24th day of November, 1849.

JAMES B. FULWILER, *Clerk.*

[SEAL]

STATE OF INDIANA, *Cass county, ss.*

Before me, the undersigned, a notary public in and for said county, personally came Henry C. Rhodes, of lawful age, and known to me to be a man of truth and veracity, who being by me duly sworn, upon his oath deposeth and says:

That he has resided in this county for many years, and that prior to the year 1846 was in the habit of attending the Miami Indian payments that were made usually at the forks of the Wabash, in Huntington county, in the State of Indiana, and knows George Hunt, an educated and civilized half-breed Miami Indian, and a member of the Miami tribe of Indians, who formerly lived in this State.

This deponent further deposeth, and says that said Hunt is a worthy and respectable citizen, and a man of truth and veracity, and so esteemed by those who know him; that he was, for some time prior to the removal of the Miamies west, (in 1846,) the interpreter for said tribe, as this deponent was informed and believes, and was then, and still continues to be, a man of standing and influence amongst the Miami Indians.

That said Hunt is a resident of Miami county, in the State of Indiana aforesaid; lives and works upon his farm, and pays his taxes, and conducts himself as well as most other citizens do.

This deponent would believe said Hunt's statement, when made upon oath, as soon as he would that of any other citizen, and especially so when it concerned the affairs of the Miami nation, with all of which he is familiar, and of which he is a member. That he, said Hunt, is a member of said tribe or nation, and as such draws his yearly annuities, as this deponent thinks and believes.

This deponent also knew John Bourie, a half-breed Miami Indian, and a member of said tribe; that said Bourie was a worthy and respectable man, spoke and understood the English language, and also the Miami tongue, and frequently acted as interpreter; that he was respected and esteemed as a man of truth and veracity, and his integrity never questioned, as this deponent heard.

This deponent would believe his statement under oath as readily as he would that of any other respectable citizen.

That said Bourie was a young man of standing and influence in his nation, being a first cousin to To-pe-ah, the late head chief of said nation. He was much respected and esteemed by the white people who knew him.

This deponent has not seen said Bonrie since 1846, at which time he emigrated with his nation to their new country, west of the Mississippi river, and where the said Bourie now resides, as this deponent is informed and believes.

This deponent also knows, and has known for many years, Louis Lafontaine the eldest son of the late Francis Lafontaine, (alias To-pe-ah,) who was the principal chief of the Miami nation of Indians at the time of his death in 1847, and had been for some years previous.

. That said Louis Lafontaine is an intelligent, sober, and respectable man, resident of Huntington county in this State, lives on a farm, and owns much valuable property in this State, on which he pays taxes, &c., like any other citizen, as this deponent is informed and believes.

That he has some education, speaks and understands the English language, and also the Miami Indian language, and is a member of said nation, and as such he draws annuities the same as any other Miami.

That said Louis Lafontaine is a man of standing and influence with his nation, and is also much respected by the white people who know him.

This deponent, from his personal knowledge of said Lafontaine, and his good standing and general good character, believes him to be a man of truth and veracity, and would believe any statement he might make under oath, as readily as he would that of any other good citizen of Huntington county.

This deponent has resided in this county most of his time, ever since the year 1830, and during this time has known the aforesaid George Hunt, John Bourie, and Louis Lafontaine, who are educated, civilized, and respectable half-breeds of the Miami nation, and all of whom this deponent believes to be men of truth and veracity.

And further this deponent saith not.

H. C. RHODES.

Sworn to and subscribed before me this day, September 14th, 1849.

[SEAL.]

WM. CHASE,
Notary Public.

BB.

Hon. G. N. Fitch, certifying to character of James T. Miller and Henry C. Rhodes.

LOGANSPOUT, INDIANA, Sept. 10th, 1849.

GENTLEMEN: In reply to yours of 8th instant, I have to say, that I have known James T. Miller, esq., of Peru, Ind., for fifteen years, and also Henry C. Rhodes, late of this place, for probably half that time. Both of them are good citizens, men of truth and veracity, highly esteemed and respected by all who know them.

Respectfully, yours,
W. G. & G. W. EWING, *Fort Wayne, Ind.*

GRAHAM N. FITCH.

CC.

Joseph Scott's deposition.

STATE OF INDIANA, *Allen county*, ss:

Personally appeared before me, a notary public, in and for said county, Joseph Scott, a creditable citizen of lawful age, who being duly

duly sworn, deposeth and saith, that he was present at the Miami payment of the year 1842, when the Miami Indians gave a national obligation to pay the balances due claimants under the treaty of November 28th, 1840; and upon which occasion said Indians refused to allow the claim of one Madison Sweetser, which had been opposed by them and rejected by the commissioners who investigated the claims under said treaty, and which in this country was considered to be notoriously fraudulent and unjust. Deponent was knowing to the manner this claim was gotten up, and has made a full statement in relation thereto in a deposition forwarded to the Government.

Said Sweetser had quit business in May, 1840, and had no goods in November and December, 1840; and the goods he pretended to have sold to the Indians belonged to them, most of which he kept after taking their notes therefor, upon which he predicated his claim; (and I now refer to my deposition on file in relation to said transaction, a copy of which is herewith attached, marked "A.")

Deponent was at the payment of 1845, and saw much of the trouble created by said Sweetser and Sinclear, in opposing the further payment on the national obligation of 24th October, 1842. Deponent has lived since a boy in the Fort Wayne country; knows the Miamies; had traded with them, and in part understands their language; at this time was a clerk, assisting Messrs. Ewings, and became familiar with the conduct of said Sweetser and Sinclear in relation to said national obligation.

From what deponent learnt of the Indians and half-breeds, Sweetser and Sinclear were trying to induce the Indians to give them the \$12,500 then due claimants, in consideration that they would defeat and annul said national obligation, to which deponent believes that part of the lower Indians consented. But Lafontaine and the principal chiefs, doubting their authority or ability to release them from said national obligation, persisted in paying thereon the \$12,500, and to comply therewith, which said Lafontaine stated the great chief Richardville in his lifetime had directed to be done.

The presence of the Hon. E. A. Hannegan, U. S. Senator, appeared to intimidate Sinclear in his course; and he subsequently consented that the \$12,500 should be paid to the claimants, upon their agreeing to accept of six annual instalments thereafter of \$12,500, and in said new obligation provide that there should be paid to said rejected claimant, Sweetser, the sum of \$4,014, and claimants to sign a release of all claims against said Miamies prior to the date of said obligation of the 24th October, 1842. Deponent then believed that said Sinclear then used the influence of the Government over a part of said Indians, as he was then able to do, for the corrupt purpose of extorting money from said Indians or said claimants; and that said obligations were changed for the corrupt purpose of obtaining money on the fraudulent and rejected claim of said Madison Sweetser; and that, from the intimacy existing between said Sweetser and said Sinclear, (both of whom deponent believed to be dishonest and corrupt men,) and the great in-

fluence said Sweetser appeared to have with Sinclear, deponent was then impressed with the belief that they were to share in said \$4,014, or any other money that could be extorted by a base use of the office of sub-agent, and the Government influence it carried with it, off said Indians and claimants. Deponent observed that many of the claimants reluctantly signed said release, and some expected relief therefrom from the representations Senator Hannegan proposed to make to the Government in relation thereto.

Deponent considered that said claimants were coerced by the corrupt use of the influence of the Government held over said Indians by reason of the office of sub-agent, then filled by said Sinclair, to sign said release, and abandon a part of their rights secured under said national obligation of the 24th October, 1842, and that in justice they should be relieved therefrom by their Government.

But for such interference, deponent believes said Indians would have paid said \$12,500, then due on their said national obligation; and, if left to act in pursuance of their own wishes and intentions, would have fulfilled said obligation.

Deponent has been long acquainted with said Sinclear and Sweetser, and believes them to be dishonest and corrupt men—indolent and unprincipled, and both addicted to gambling, particularly said Sinclear.

Both of them have left this country for California, and deponent does not believe their absence is regretted by the citizens of Fort Wayne and its vicinity, where they are best known.

From the knowledge deponent had of the villainous character of said Sweetser's claim, when he learnt that the former obligation had been required to be released against, and a new one taken, wherein \$4,014 was secured to be paid on said notoriously fraudulent claim, deponent then considered, and still considers, the transaction fraudulent and corrupt. Said sub-agent was thereby using the sanction and influence of his office, and that of the Government, to collect part of a rejected and fraudulent claim, and at the same time to cover this nefarious transaction with a pretext of friendship to said Indians, was depriving American citizens of a part of their claims, predicated upon balances reported to be due to them by the commissioners under the treaty of 28th November, 1840, and which said nation of Indians had agreed to pay by their aforesaid national obligation, entered into in open council with said claimants when said Indians were assisted by their attorney, hon'ble James Rariden—thus doing injustice to said citizens, and securing part of a claim to be paid that was notoriously fraudulent.

At the council of the Indians before signing the obligation of the 24th October, 1842, the claim and amount of balance, as found to be due to each claimant, was particularly named, and the consent or rejection of the Indians called for upon each; they consented to that of those claimants named on said national obligation, which, after this investigation they then executed, but positively, and by acclamation, rejected the claim of said Sweetser. And further this deponent saith not.

JOSEPH SCOTT.

Sworn to and subscribed before me, this sixth day of September, A. D. one thousand eight hundred and forty-nine.

S. S. BASS, [SEAL.] *Notary Public.*

A.

STATE OF INDIANA, *Allen county, ss.*

Personally appeared before me, the undersigned, notary public, in and for said county, Joseph Scott, of lawful age, who being duly sworn, deposeth and saith :

That in the month of December, A. D. 1840, William Chappeen, a Miami Indian, came to the store of Scott, Iten & Co., in the town of Wayne, in company of Jesse Vermilyea, Madison Sweetser, and an interpreter, Gieggory Bondie ; said Bondie inquired if said Chappeen's credit was good for \$1,400 in goods there, that he wished to purchase that amount on credit to pay said Vermilyea for 160 acres of land he had purchased of him. Deponent replied that it was.

Thereupon, the goods were selected by said Vermilyea to the amount of \$1,400, billed, and packed in boxes, and removed into an adjoining warehouse; (and taken away the next day.)

After this first purchase, and the same day, Chappeen, through his interpreter Bondie, proposed to purchase the balance of the stock of goods then on hand, and inquired how much they would take for them. Deponent then consulted at his residence Mr. F. Comparet, the senior partner of the firm, and agreed to take \$6,800 for the balance of the stock of goods ; which was agreed to by Chappeen, and thereupon the goods were delivered to Chappeen and said Sweetser, and he was delivered the keys of the store. Said Sweetser requested Mr. Colerick (Scott, Iten & Co.'s clerk) to sleep there that night, and that next morning he would come and take charge of them himself. During that night, four small boxes of goods were packed up for said Chappeen and Bondie, crockery, and other articles, such as they wanted themselves and families, and this deponent does not think exceeded in value \$500, which, in a day or two thereafter, this deponent sent to them at Dickey's Lock, 16 miles southwest on the canal. Said Chappeen and Bondie left that night about midnight, and this deponent did not see them in Fort Wayne again for some weeks thereafter. Next day deponent saw said Madison Sweetser in possession of said stock of goods and storehouse, fixing them up with his clerk, and packing up a considerable amount of the most valuable goods in trunks and boxes, which this deponent believes said Sweetser kept and used.

And he thus remained in possession of them four or five days, until he sold out to two other Miami Indians, to wit, to Black Joe Richardville and Do-ta-wa, or Young Squirrel.

These two Indians deponent saw about the town for one or two days drunk, and they left town without the appearance of having any of the goods.

Some of the goods passed into the hands of other persons.

Said Sweetser invoiced said goods at \$8,000 or \$9,000 to said Black

Joe Richardville and Do-ta-wa, or Young Squirrel, which was afterwards presented to Commissioners Clark, Bloomfield, and McCarty, as a claim, and by them disallowed as deponent was informed.

Said Sweetser had been engaged for some years in selling goods in Fort Wayne prior to the month of May, 1840, (when he sold out to one F. S. Avaline,) and at the time of these transactions with the Miami Indians, Chappeen, Richardville, and Squirrel, he was out of business, and this deponent believes had no goods in this country. And further this deponent saith not.

Signed,

JOSEPH SCOTT.

Sworn to and subscribed before me, the day and year above named.

Signed,

JOHN HOUGH, JR.,

Notary Public.

DD.

FORT WAYNE, *August 25, 1849.*

GENTLEMEN: I hereby certify, that I have known for many years, Thomas Hamilton and Joseph Scott, esq., of this city, and James T. Miller, of Peru, in Miami county, and State of Indiana, and take pleasure in stating that they are all three gentlemen of truth and veracity, and as such are much respected by the people of this place and Peru.

Very respectfully, your obedient servant,

SMALLWOOD NOEL.

Messrs. W. G. & G. W. EWING,
Fort Wayne, Indiana.

EE.

WASHINGTON CITY, *25th Feb., 1850.*

Hon. R. W. THOMPSON.

Your note of this morning, requesting me to state the character of James Rariden, esq., for honesty and integrity, was duly received. I have known Mr. Rariden long and intimately, and have no hesitation in saying that his character for honesty and integrity stands above all question, as high as that of any other gentleman of my numerous acquaintances. I never heard either his honesty or integrity questioned, and believe both to be unquestionable.

Very truly,

O. H. SMITH.

FF.

WASHINGTON, *25th Jan., 1850.*

DEAR SIR: Having been requested by you to state what is the character and standing of the honorable James Rariden, of Indiana, I take

pleasure in saying that I have known Mr. Rariden intimately for the last twenty years, and there is no one in our State who sustains a higher character for integrity and uprightness. Mr. Rariden has been many years a member of the State Legislature, and four years a member of Congress, and has, ever since I have known him, sustained a high character, both as a public man and a private citizen. I should rely implicitly upon any statements he might make, and I believe his statements would command universal confidence wherever he is known.

Very respectfully,

CALEB B. SMITH.

Col. G. W. EWING.

GG.

WASHINGTON, *Feb.* 25, 1850.

Learning that representations unfavorable to the character and credibility of James Rariden, esq., of Indiana, have been made to the Indian office, by Joseph Sinclear, at one time agent for the Miamies, I deem it my duty to say that no man stands higher than Mr. Rariden where he is known, and that he is above all suspicion as a gentleman of truth and honor.

From my own personal knowledge, no man enjoyed the confidence of that tribe of Indians more than Mr. Rariden, as their counsel, their friend, and attorney. I was made acquainted with Mr. R's character in these various relations, and *know* that he was highly appreciated by them. That he would betray any of their rights, no man of any character would be willing to assert.

So far as Mr. Sinclear is concerned, it is perhaps unnecessary for me to say more than that he did not seem to possess the confidence of that tribe while agent, nor do I believe he had it in any capacity.

THOS. DOWLING.

In regard to what is said by Mr. Dowling relative to the character and standing of Mr. Rariden in Indiana, I fully concur.

J. H. HAGER.

I would state further, in addition to what is set forth in the preceding page, that Mr. Sinclear repeatedly threatened that the Indians should not emigrate till himself and some others should be paid for helping to emigrate the Indians, as he and others had influence enough to keep them. I was then a contractor to remove the tribe west of the Mississippi. This was before he was appointed agent.

THOS. DOWLING.

HH.

WASHINGTON CITY, *Febr'y* 26, 1850.

Hon. RICHARD W. THOMPSON.

DEAR SIR: In answer to your note of yesterday, asking me what I know of James Rariden, esq., of Indiana, as to truth and veracity—I

can only say that such an inquiry struck me with surprise; I have never in my life heard any one intimate anything of Mr. Rariden, other than that he is the equal of *any man* any where for truth and veracity; no one in our State I suppose stands higher. I have known him since 1827, not as particularly as others, but I have been more or less associated with him at several periods of my life, and feel that I express very feebly the high appreciation his acquaintances have of him.

I am, yours, respectfully,

A. W. MORRIS.

II.

WASHINGTON, 28 Feb., 1850.

I understand that Joseph Sinclear, late sub-indian agent, has charged the hon. James Rariden with having been bribed by the creditors of the Miami Indians, at a time when he was acting as attorney for them.

This charge *cannot* be true. No man has a higher reputation than Mr. Rariden, for integrity and honor. He is above reproach. He is utterly incapable of acting dishonestly—as much so as any man living.

S. MEREDITH.



